Report & Recommendations, 1990

Winnipeg Taxicab Service and Regulation

Manitoba
Taxicab Board

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MANITOBA

THE TAXICAB BOARD

REPORT AND RECOMMENDATIONS ON WINNIPEG TAXICAB SERVICE AND REGULATION

March, 1990

FOREWORD

"The more honest one is, the easier it is to continue being honest, just as the more lies one has told, the more necessary it is to lie again. By their openness, people dedicated to the truth live in the open, and through the exercise of their courage to live in the open, they become free from fear."

"The best decision makers are those who are willing to suffer the most over their decisions but still retain their ability to be decisive."

- M. Scott Peck, M.D., The Road Less Traveled, Simon and Schuster Inc., 1978

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EXECUTIVE SUMMARY

The Taxicab Board is a five member independent administrative tribunal established by an Act of the Legislature to administer a system of economic regulation of the taxi industry in the City of Winnipeg. Three of the members are appointed by the Lieutenant Governor-in-Council, one is a delegate of the Chief of Police, and one is a member of City Council.

The Board has been conducting extensive consultations with interested parties since August, 1988, on issues relating to industry structure and financial position, the quality and condition of vehicles in service, the adequacy of the existing limit on the number of licences, the feasibility of wheelchair accessible taxis, the appropriateness of Board regulation of services restricted to the handicapped, and other matters.

Interested parties have been consulted primarily through public hearings conducted in January and February, 1989. In addition, the Board directed the performance of economic research, and the Board Chairman and staff consulted a number of individuals on an informal basis.

This report represents the culmination of this work. In it, the Board makes the following key recommendations:

1. adoption of Board policies respecting the provision of cost information by taxi licence holders and annual reviews of the limit on the number of licences, which will ensure reasonable taxi fares, an adequate number of taxis, the viability of the industry, and stable prices for taxi businesses;

2. improved Board vehicle inspection criteria and more objectively determined compliance action, which will improve the general condition of vehicles in service;

3. creation of an additional class of taxi service, at a higher fare, operating new full-size vehicles of superior quality, which will:

   (a) provide an opportunity for taxicab operators to stimulate growth in demand for taxi services in a market segment that is not currently adequately served, and thereby increase their efficiency and profitability;

   (b) provide greater consumer choice and allow the service requirements of more users to be satisfied;

   (c) enhance the image of Winnipeg without cost to users in other market segments or the taxi industry; and

(d) enhance the level of competition in the industry as a whole, and thereby improve the overall quality of vehicles in service without cost to users in other market segments;

4. incremental increases in the limit on the number of taxis, tied to the placing in service of superior vehicles, which will ensure the anticipated increased demand for taxi services will be adequately met, without adversely affecting existing taxi licence holders;

5. creation of a fund, through the tendering of the proposed new taxicab licences, from which existing taxi licence holders may be compensated for the potential reduction in the value of their businesses;

6. a requirement for taxicab companies to operate a minimum number of wheelchair accessible taxis at regular taxi rates, under licences issued by the Board for a nominal fee, in order that the companies fulfill their legal obligation to provide reasonable accommodation for the special needs of the disabled, without undue hardship;

7. removal of the restriction to wheelchair passengers in existing handivan licences on certain conditions, in order that the Board fulfills its legal obligation not to discriminate on the basis of physical disability, which will

(a) enhance the feasibility and thereby lower the cost of taxi services to the handicapped; and

(b) provide a supply of experienced operators who may enter into arrangements with taxi companies to operate wheelchair accessible taxis on behalf of the companies, allowing the companies to fulfill their legal obligation to provide reasonable accommodation, without undue hardship;

8. improved regulation of service levels through the adoption of a Code of Conduct for taxi operators, requirements for industry self-enforcement of service standards, greater Board resources for inspections, and the provision of broader disciplinary power to taxi dispatch companies and the Board; and

9. expansion of the membership of the Board, to provide for a greater base of knowledge of industry and user concerns.

The Board believes implementation of the 31 recommendations in this report will substantially enhance the overall quality of taxicab service in Winnipeg, without impairing the financial position of existing operators. The enhancement of service quality will improve the image of the City, to the benefit of all its citizens.

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THE TAXICAB BOARD

REPORT AND RECOMMENDATIONS

ON WINNIPEG TAXICAB SERVICE AND REGULATION

1. BACKGROUND

1.1 Research Prior to the Hearings

Many issues confronted the Taxicab Board in the time leading up to the summer of 1987.

There was substantial concern over the poor public image of the Winnipeg taxi industry. The quality of vehicles in service was being criticized, but there was insufficient information respecting the industry's financial position to determine whether better quality vehicles could be afforded. Some argued expansion of the quota of licences was required.

The ability of the Board to effectively regulate the industry given the resources committed to it was in doubt.

As well, the appropriateness of economic regulation by the Board of transportation services restricted to handicapped persons was being challenged, and the question of the role of the Board in ensuring access to regular taxi service for mobility impaired individuals was also raised.

Due to the complexity of the issues and the lack of internal resources, the Board sought the assistance of the Government. In August, 1987, the Department of Highways and Transportation issued a request for proposals for a study of the issues. In December, 1987, Touche Ross Management Consultants were retained to complete this work.

On June 2, 1988, Touche Ross submitted its study to the Board. Shortly thereafter, the Board released the study to the public, together with a discussion paper which clearly indicated neither the Board nor the Government had adopted the study's findings.

The discussion paper released with the study invited all interested parties to submit comments on the paper and the study. Despite wide distribution of the documents to interested parties, comments were received from only the following persons:

1. Tom Springman, Duffy's Taxi Ltd.
2. Unicity Taxi Ltd.
3. Veronika Demerakis, Manitoba League of the Physically Handicapped Inc.
4. Theresa Ducharme, People in Equal Participation Inc.
5. Paul Ryplanski, Duffy's Taxi Ltd.
6. Ken Cherney, Duffy's Taxi Ltd.

Unfortunately, the Touche Ross study raised more questions for the Board than it answered. In addition, and even more damaging to the chances of resolving the problems, the findings of the study relating to the financial position of the industry, and the appropriateness of the current licence quota, raised substantial controversy. Due to the lack of sound data upon which to base the findings of the study and the lack of depth of its analysis, the Board was not in a position to support the study. As a result, the Board was further from a resolution of the issues than it was a year and a half earlier.

The matter was complicated by the resignation of the Board Chairman in August, 1988. Distrust on the part of many members of the industry, created by the Touche Ross report and fueled by their belief that they would be substantially adversely affected by imminent, preordained changes, made it difficult for the new Chairman to engage in a constructive dialogue.

At the time of the release of the Touche Ross study, the Board had determined to hold public hearings on the issues. In the fall of 1988, the new Board Chairman reviewed the work completed to date, consulted with interested persons, and wrote a 23-page discussion paper entitled "Alternatives for More Effective Regulation and Improved Performance of the Taxicab Industry in the City of Winnipeg". The discussion paper was published in December, 1988.

The intent of the discussion paper was to provide concrete direction to the public hearings, in order that they would be as productive as possible. It was made absolutely clear in the paper that no decision on the merits of any of the alternative proposals put forward had been made.

1.2 Public Hearings Conducted

The Board held public hearings at the hearing room of the Motor Transport Board on January 25, 26, 30 and 31, and February 2, 1989. All those wishing to appear and make representation were given an opportunity to do so. In total, 39 presentations were made to the Board.

The following persons appeared at the hearings and tendered a written presentation to the Board:

1. Don Taylor, Winnipeg Chamber of Commerce
2. Ken Cherney, Duffy's Taxi Ltd.
3. John Lane, Canadian Paraplegic Association

4. Mel Holley, Manitoba League of the Physically Handicapped Inc.
5. E. Thornhill, Manitoba Society of Seniors Inc. and Age and Opportunity
6. J. Allan MacDonald
7. G. Elliot and R. Jennings, Winnipeg International Airport
8. Theresa Ducharme, Pro-Pal Promotions
9. W. Stoopendaal, Aristocrat Limousine Service Ltd.
10. Limcon Developments Ltd.
11. Campbell Wright, People in Equal Participation Inc.
12. Glen Stewart, Manager, Unicity Taxi Ltd.
13. Peter Kapusta, Manager, Duffy's Taxi Ltd.
14. Narinder Dhanjoon, Unicity Taxi Ltd.
15. Tom Springman, Spring Enterprises Ltd.
16. Albert Crundwell, John Seguier, and George Rochon, Greater Winnipeg Handicapped Transportation Group
17. Sukhdev Singh, Unicity Taxi Ltd.
18. J. Hillard, Consumers Association of Canada
19. Alkah Brown, Al-B's Wheelchair Escort Services
20. Robert Donoghue, taxi driver
21. Cordell Cloutier, Blue Ribbon Transportation

The following persons appeared at the hearings and made oral representation only:

1. Manjit Dhillon, Duffy's Taxi Ltd.
2. Jim Derksen, Decade of Disabled Persons
3. Anthony Olorundare, Unicity Taxi Ltd.
4. Balwant Khaira, Duffy's Taxi Ltd.
5. Peter Hendricks, Gold Leaf Limousine Service
6. A. Phillips, Arluc Handi-cap Transportation
7. R. Voskoboynik, Unicity Taxi Ltd.
8. Paul Murphy, wheelchair accessible vehicle designer
9. Ben Mandell, Duffy's Taxi Ltd.
10. Vijay Kaushal, Duffy's Taxi Ltd.
11. Mohammad Rana, taxi driver

The following persons tendered a written presentation, but declined to appear before the Board at the hearings:

1. Hugh Grant, Department of Economics, University of Winnipeg
2. Herbert Hajer, Duffy's Taxi Ltd.
3. Fred Heinrichs, taxi driver
4. E-Quality Employment Inc.
5. Eric Johnson
6. Ken Ibbetson

1.3 Research Subsequent to the Hearings

The Board was of the view that further information and analysis were necessary in order for it to have confidence in the soundness of its decisions. Accordingly, the Board retained the services of an economic research analyst, on a half time basis for a six month term. The tasks undertaken were as follows:

1. Review of the submissions which were filed at the recent public hearings.

2. Development of a revenue and cost analysis of the industry.

3. Analysis of the appropriateness of the current fare structure.

4. Analysis of a fare increase to recover the cost of a new vehicle worth $20,000 every three years or an accessible taxi.

5. Development of a standard classification of accounts for expenses of a taxi business and a form for the annual return of financial information.

6. Comparison of the regulation of the taxicab industries in other Canadian cities.

In the course of the research, 13 licence holders were interviewed. The report included a substantial section in which the concerns and suggestions of these individuals as conveyed to the researcher were described.

The results of this research are described in greater detail in the relevant sections of this report.

1.4 The Environment of Intimidation

In order to ensure public confidence in the Board and this report, it is incumbent on the Board to comment on the conduct of individual members of the taxicab industry over the past year and a half, and on the perception of the Board's ability to effectively regulate the industry in the public interest, in the environment created by this conduct.

At the hearings, certain individuals refused to accept that the Board and particularly its Chairman had the right and the duty to maintain order to ensure that the proceedings could be effectively carried on.

Procedural rules were established, but those individuals refused to abide by them. Despite a revision of the rules made with a view to accommodating their concerns and demonstrating a degree of sensitivity, they continued to disrupt the proceedings. Procedural rulings were challenged by persons yelling from the floor. Board members were yelled at and insulted. Presenters with whom they disagreed were intimidated by angry shouts, accusations and derision. Two adjournments were necessary to restore order, and a disruptive walk out-demonstration was staged during the presentation of an individual with whom they disagreed.

The representative of the Manitoba League of the Physically Handicapped Inc. and the Manitoba Society of Seniors Inc., Mr. Mel Holley of the Public Interest Law Centre of Legal Aid Manitoba, described the proceedings in his closing remarks in the following manner:

"Let me begin by dealing with a concern identified at the beginning of this hearing by both our client groups and unfortunately a concern which remains today. That concern Mr. Chairman bluntly put is the attempt by certain members of the taxicab industry at the beginning of the hearing and perhaps again this morning to intimidate this Board and the people appearing before it. The ability of the drivers to effect a change of procedure shortly after the hearing began and repeated refusal to accept and follow simple rules of conduct, the outbursts and disruptions, threats, insults, Mr. Chairman, and the necessity for you, a duly appointed Chair of a regulatory board, to write to the industry in the middle of a hearing justifying your right to chair the board, all of these Mr. Chairman are things which are inappropriate and ought not to be part of a regulatory proceeding.

Sadly, Mr. Chairman the result of this is an erosion of the confidence that our clients have in the Board and this process; an erosion of the confidence that existed when this process began. Let me add Mr. Chairman that my comments are not intended to reflect on the Board members or you as its Chair. On the contrary. I believe that the Board has made the best of a bad situation. Perhaps, Mr. Chairman I believe the Board has bent overboard to create a unique proceeding to deal with some unique circumstances. The fact remains however that in order for a proceeding of this nature to be successful all parties must cooperate and assist the Board to the fullest extent of their abilities. At this hearing, sadly, such cooperation and assistance has not been forthcoming.

. . .

the industry's disrespect for the Board's jurisdiction, its abilities and its procedures and authority represent, in our view, a serious impediment to the Board's ability to function. The impact of this affects not only the drivers and owners of taxicabs Mr. Chairman but also the consuming public who depend on this Board for proper regulation. . . . wheelchair access to the regular taxicab industry is more likely to be successful if it occurs with the cooperation and participation of the industry at all stages of planning and implementation. At this point it appears as though the industry is not only unwilling to participate in such a process but, sadly, they are unable to do so.

. . .

Throughout this hearing the industry has presented itself as defensive, hostile and inflexible. . . .

> Mr. Chairman my remarks on the industry are based solely on the conduct of certain drivers at this hearing and are not intended to be aimed at the industry at large - in fact I hope Mr. Chairman that what we have seen at this hearing does not reflect upon the industry at large.
>
> I have said Mr. Chairman that the Board has a handle on the problems which beset this industry. Perhaps the greatest problem that the Board has before it Mr. Chairman is bringing the industry back into the Winnipeg community so that the industry can once again have a relationship with organizations who represent and speak for consumers whom they serve."

Subsequent to the hearings, completely baseless rumors regarding the Board's future actions began circulating in the industry, some of which were clearly in direct conflict with public pronouncements of the Board in this regard. The Board Chairman and the Secretary were called upon to resign, and a mass protest that did not have substantial industry support was publicly announced and then abandoned after receipt of assurances from the Government that industry concerns would be heard - an assurance that had been given numerous times before.

Over the course of the first year the current Chairman was in office, he was told personally by industry representatives on varying occasions that "certain members of the industry would do anything, anything at all, to prevent the issuance of more licences" and there would be "no rules, no rules at all in the fight"; that there was a rumour circulating that "anyone who converted his handivan licence to a licence to operate a wheelchair accessible vehicle", in accordance with a Board proposal for discussion, "would have his house burned down"; that groups within the industry "enforce discipline by smashing the windows of cabs" owned by operators who get out of line; that "we are sitting on a powder keg" and "blood will flow" if something is not done favourable to the industry.

One taxi licence holder told a Board staff member that the holder's house would be burned down if he failed to speak at the public hearings in opposition to proposals being considered.

A number of members of the public in private meetings with the Chairman have indicated they were fearful of violent retribution if they publicly expressed their concerns regarding the adequacy of taxicab service.

That licence holders would have strong feelings on the issues being addressed by the Board is understandable. Their livelihood would be potentially substantially adversely affected should the Board make the wrong decisions, and there was some basis for their fear that this might occur due to the findings of the Touche Ross report.

That licence holders would be defensive is also understandable. The taxi industry is subject to much unjustified public criticism, and there is a widespread lack of empathy for their position and lack of understanding of industry economics. Industry members work hard in a difficult and dangerous business, and get little in the way of respect and support from the public. They are often new Canadians who are underemployed due to the lack of recognition of their education and other adjustment difficulties immigrants typically face, including racial discrimination.

However, there was no basis for their belief that the Board was against the industry and had made up its mind on certain issues. There was no justification for the extreme actions taken in a concerted effort to destroy the open and democratic public consultation process being carried on by the Board. Open public debate is the essence of the democratic process; industry members attempted to shout down that debate and to intimidate and remove from office the members of the Board given quasi-judicial powers directly by the Legislature to supervise it.

By their conduct, certain industry members only embarrassed themselves in the eyes of fair-minded members of the industry and the public, and damaged industry interests. They undermined their own credibility on all issues, including those in respect of which they had express written Board support prior to the hearings. They have raised the question as to whether effective economic regulation of the industry is possible in this kind of environment, and thereby prompted the Board to consider addressing the question of whether the public interest would be served by deregulation of the industry.

The Board recognizes that public statements critical of the conduct of individuals in the industry at this time may be counterproductive to the goal of developing the type of cooperative relationship that is critical to the effective implementation of change.

However, the Board also considers it critical to establish public confidence in its integrity and respect for its authority. If this issue were simply swept under the rug, there would be no assurance to those affected by our decisions that we have not been intimidated or influenced by extraneous considerations. If no official public condemnation were made, any findings in favour of the industry would be suspect, and would encourage those who engaged in irresponsible conduct by leaving them with the impression their tactics worked. Every time a difficult issue confronted the Board, instead of constructive dialogue, confrontation would ensue.

The Board therefore expressly assures the Government, the members of the Legislature, and the general public to whom it is ultimately accountable, and particularly those who bravely came forward to express their views at the public hearings, that it has considered the issues fairly and objectively, without regard to any irrelevant considerations. The Board has not been intimidated, but rather its resolve to take appropriate action has been strengthened.

More recently, there have been significant signs that the attitude of industry members is changing for the better. Expressions of support have been received by the Board from a number of industry leaders, including some of those who were vocal in their opposition.

An advisory committee has been established, comprised of members representing both industry and user interests, which will meet shortly after the release of this report. The Board is cautiously optimistic that a new era of cooperative yet effective regulation is on the horizon.

2. INDUSTRY STRUCTURE, EFFICIENCY AND COMPETITION

2.1 Ideal Industry Structure

There is some debate as to what industry structure provides the most efficient and competitive taxi service to the public.

The most widely held view is that the owner operator structure is most economically efficient. Papillon (1982, p. 113, note 12) states:

> "Analysis of the costs of producing taxi services reveals no economies of scale in terms of the number of taxis operated by a given owner. This is linked to several factors. First, the basic technique (the taxicab) has a very low maximum rate of production in relation to the level of consumption in any taxi services market. Since each individual taxi operator determines to a large part the efficiency with which the industry's productive means (taxis) are used, the employer-employee relationship within a firm of several taxis cannot help but create an inefficiency X; in effect, the share of the risk an employee assumes is completely disproportionate to his degree of control over the production process as a taxi operator. Second, the vertical integration that may be made possible through operation by a given owner of a fleet of taxis -- repair and body shop or gas station operated jointly with a fleet of taxis -- is not justified because the automobile is so common that its maintenance is handled by a highly developed industry that probably offers services at the lowest cost. The cost of operating a dispatch centre, with modern communication techniques, also presents no economies of scale. The existence of large dispatch centres such as Diamond in Montreal is partly explained by the existence of a clientele seeking mobility within a large territory, rather than by a particular structure of production costs for a dispatch centre."

This is also the view of the Licencing Committee of the Regional Municipality of Ottawa-Carlton. In its Report dated June, 1989, the Committee recommended the number of plates that could be owned by one person be limited to 20. The Committee perceived the lack of competition due the concentration of licence ownership in Ottawa has caused service to the public to suffer. They predicted (at p.21):

> "If there are more single plate and small plate owners there will be more interest and more involvement in better service on the street. This will be reflected in better maintenance, better equipment and a better level of personal service to the customer. Indeed, this can be seen on the street today as one deals with fleet taxis versus independents."

On the other hand, Prof. Grant is of the view that the holding of licences should not be too widely distributed among a large number of owner operators. He submitted (p. 6):

> "...since the decision as to how long each taxicab remains on the road is made by the individual owner, companies have no means by which to regulate the level of service to fluctuations in demand. The result is that there are frequently too many taxicabs on the road at off-peak hours, leading to an inefficient use of resources. In other words, a greater degree of centralized decision making rather than less, is preferable if the industry is to be organized efficiently."

Mr. Cloutier of Blue Ribbon Transportation was of a similar view. He submitted (p.4-6):

> "Why doesn't [Duffy's] send one hundred taxis home during this slow time? Why, because you can't tell someone who owns his own licence to go home. Duffy's taxi is not a real company, its one hundred and forty-five small companies, and they cannot make a decision like a large company would. The owner/operator system just does not work as efficiently.
>
> . . .
>
> All real business people know that it is cheaper to operate a new fleet of cars than a used fleet. When [you are] operating one car at a time, you cannot maximize on savings like a fleet can. This is just one more example of the inefficient owner/operator system.
>
> . . .
>
> All the suggestions you have made in the discussion paper won't change or improve the fundamental problem of the industry, which is the owner/operator system. No amount of regulation is going to make the owner/operators good businessmen. In the meantime, the public is going to suffer second rate taxi service."

Further, industry self-enforcement of service standards is more difficult under an owner-operator structure. There may be too little centralized decision making capability to allow a problem of an inadequate level of service to be effectively addressed.

Under an owner-operator structure, the paying customers of the dispatch companies are their owner-operators, not the general public. The dispatch company may be reluctant to institute strict compliance measures that might be unpopular with some individual operators, although they may be in the interests of the public, the dispatch company, and the operators as a group, because the company may be concerned that it might lose the revenue from those operators.

A few individual operators with a poor attitude can do substantial damage to the reputation of a dispatch service and the industry generally. Disciplinary action can more readily be taken when the control of licences is more concentrated.

Papillon is correct that the driver has substantial control over the return of the operation, but this does not necessitate an owner-operator structure. If driver compensation is a share of meter revenue, there is a strong incentive for the driver to be as productive as possible, whether or not he owns the vehicle; the driver will be sharing the risk with the owner.

As well, contrary to the views of Papillon, there is some empirical evidence of economies of scale in taxicab operations. The research of Pagano and McKnight (1983) suggests that, depending on the number of trips per cab per annum, a taxicab company with 5 to 15 cabs would achieve the lowest cost per unit of output. Above this number, management inefficiencies would develop, as suggested by Papillon. Below this number, there would be a less efficient utilization of vehicles. This research is consistent with the finding of superior performance on the part of at least two small fleet operators in Winnipeg.

Also contrary to the views of Papillon, one would intuitively expect there to be substantial economies of scale in the provision of dispatch services. The capital costs of offices and modern, computerized equipment are relatively high, and fixed costs of administration significant. The more revenue producing units operating under a dispatch company, the lower the cost per unit.

In considering the ideal industry structure, one should also consider the substantial economies of density and scope in the provision of dispatched taxi services. The greater the number of cabs associated with a dispatch service and the more comprehensive and varied the markets served, the higher the level of ridership, and thus the lower the cost per unit of output. As stated by Teal and Berglund (1987, page 38):

> ". . . effective competition in the telephone order market requires a relatively large fleet to cover a whole area effectively. Thus the telephone order industry is likely to be relatively concentrated."

However, at some point there may be too few competitors in the provision of dispatch services. In a city where telephone bookings comprise the major portion of the market, it is the dispatch company that is identified as the taxicab service provider, not the individual owner-operators associated with it. For a competitive action to have success, it must originate with the dispatch company.

Further, in a regulated market, for there to be some incentive for owner-operators or small fleet operators to improve their position, there must be alternatives to which they may turn for dispatch services.

Papillon (1982) also points out that an inherent effect of entry control is a lack of incentive to improve the level of service. He asserts (at p. 48-9):

> "In a city that limits the number of taxis, taxi operators with a given dispatch centre providing superior taxi service or diversified services are not able to meet the needs of new consumers unless competing taxi operators decide to switch to their centre. Since the industry is unable to use outside resources, the consumer is placed completely at the mercy of established taxi operators. Because of the restrictions on the number of taxis, the market therefore generates no incentive for operators to provide adequate or improved service to the public."

This problem should be considered in determining the ideal structure of the industry under regulation. If licence ownership were too concentrated, the problem of a company being unable to expand under entry control would be exacerbated. An owner operator or small fleet operator could be enticed to a growing and dynamic company by the prospect of sharing in that growth. If the industry were made up of a few holders of a large number of licences, there is little or no prospect of growth for a particular company.

The problem of inefficiency through too many vehicles being on the road at slow times, pointed out by Prof. Grant and Mr. Cloutier, could be addressed by an industry comprised of a large number of operators of fleets of 5 to no more than 20 vehicles. Concentration of licences in a few hands is not necessary.

The problem of the lack of enforcement of service standards by a dispatch company under an owner operator structure is more difficult. However, within a proper legal framework, a system could be established by the regulatory body, under which the dispatch company could more effectively take compliance action, under the supervision and with the backing of the regulator. If such is achievable, on balance the Board believes a structure without substantial licence concentration is to be preferred.

Further, in considering the licence concentration question, one should have regard to the comments of the Economic Council of Canada in its 1981 Report, Reforming Regulation (p. 25):

> "So long as entry control exists, municipal governments should appreciate that in issuing a taxi licence they are granting an asset of significant value to specific individuals. These distributive effects should be explicitly considered in deciding on the process for issuing licences and the criteria for eligibility. We suggest, for example, that purely on equity grounds it would be inappropriate not to establish limits on the number of licences that could be directly issued to any one individual or group of individuals."

From this analysis, it would appear that the ideal industry structure would be one with a balance between the number of small and medium size fleet operators and the number of owner operators, all associated in even numbers with 3 or 4 dispatch services. There should also be institutionalized control by the dispatch service over the service level provided by the operators, and free movement of operators between dispatch companies, in order that any competitive action may be effective.

Board policies should encourage the establishment and maintenance of such an industry structure.

2.2 Winnipeg Industry Structure

There are two major dispatch companies in the Winnipeg taxi industry, Unicity Taxi Ltd. and Duffy's Taxi Ltd. Unicity controls 240 licences; 140 licences are affiliated with Duffy's. 19 licences are affiliated with or owned by the recently formed Spring Taxi, and there is currently only one completely independent operator.

The 400 licences are held by approximately 360 owner operators, indicating very diversified ownership of the industry.

Touche Ross found lack of competition was a key industry characteristic. They recommended the Board create a more competitive environment in the industry. One suggested means of dismantling the current concentration in the industry was to alter the number of licences. It was also recommended that the Board place a ceiling on the number of licenses held by any one company, individual or cooperative.

The Board Chairman in the "Alternatives" discussion paper commented as follows on this issue:

> "One of the primary functions of a system of economic regulation is to limit the level of competition in the public interest. In place of competition as the ultimate "regulator" of who provides service, at what price, and at what level of quality, the government establishes an administrative tribunal.
>
> The Taxicab Board regulates fares; thus, there is no need to be concerned that the level of competition is too low to prevent detrimental pricing practices.
>
> It is true that the industry is comprised of only two major companies, and that the Board is not substantially involved in the regulation of service levels. However, it does not necessarily follow that there is no service competition. Fierce competition can occur between the only two competitors in a marketplace.
>
> As well, in the taxicab industry service is provided by many independent small businessmen, who essentially purchase dispatch and other services from one of the two major companies. Further, drivers are generally

> paid on a commission basis. On the street, each individual owner/driver and employed driver is well aware that the quality of the service he provides will have a direct bearing on his income, and competes with all others in the provision of that service.
>
> Competition can have disadvantages as well as advantages; if it were otherwise there would be no rationale for regulation whatsoever. The economics of the taxicab industry are such that to some point the larger the company, the lower its cost per unit of output and the more responsive will be the service. It is quite possible that Winnipeg would have the lowest possible cab fares and the quickest response times with just one company, and that the breakup of one of the two major companies would result in a need for higher fares and in slower response times."

In his submission, Prof. Grant stated (p. 5):

> "There is no evidence to suggest, as the recent Touche Ross study does (1988, 28) that the concentration of licence owners in two organizations has led to "decreased competition, higher returns for the licence owners, and fewer choices for consumers". As with many public utilities, the consolidation of supply offers greater efficiency, and the taxicab industry would appear to be no exception. Centralized dispatch services result in better coordination of supply and, thus, a shorter response time. In fact, several jurisdictions require a licence holder to belong to an association with a central dispatch service (Papillon, ch. 1). As long as regulations exist governing the fare structure and other aspects of industry performance, the structure of ownership does not constitute a problem per se."

Due to concern regarding the efficiency of the industry, the Board did not propose any measure that would have as its primary purpose an increase in the level of service competition through an increase in the number of dispatch companies. Indeed, the fact that large-scale coordination of activities improves service through improved efficiency (the realization of economies of scope and density) is evidenced by the excellent average response time at Unicity discussed in section 5.34.

However, after consideration of the representations received, there is substantial indication of an historical lack of entrepreneurial initiative and innovation in the industry. The industry does little to increase demand for its services, or to fill newly developing market niches. Not a single positive suggestion for change was presented at the hearings by those directing and managing the existing Companies.

The dispatch companies do not adequately coordinate industry enforcement of service standards. The actual level of service is left to the initiative of the individual owner operator to too great a degree. Although the majority of operators may provide fine service, it only takes a few to adversely affect a company's image. The good operators can not afford to risk bearing the adverse publicity arising from the conduct of the bad.

A prevalent attitude in the industry is that the Board should do more to enforce service standards. The Board does not have the resources, and never will, to assess every vehicle and driver every day. The industry can readily do so, much more effectively and efficiently than can government. Each company, in its own interests, should be doing so.

The Winnipeg industry also has very few small fleet operators. It is at least arguable that industry performance could be improved by an increase in the number of small fleet operators, through more efficient utilization of vehicles.

Thus, the Winnipeg taxi industry appears to be structured in a manner that provides efficient coordination of operation through large, centralized dispatch and an enhanced potential for competition through a large number of owner-operators. However, the structure results in little incentive to improve and expand service, ineffective control of service adequacy by the dispatch companies, and some inefficiencies in the operation of vehicles due to the lack of small fleet operators.

2.3 Feasibility of a Third Major Competitor in Winnipeg

With respect to the question of the number of cabs which should be coordinated through a single dispatch service, it appears to be the view of industry members that at least 50 vehicles are necessary to cover the City. With fewer licences, it would not be likely a third company would be able to effectively compete on a City wide basis.

With respect to the impact on the efficiency of existing operations, should licence holders leave to form a third company, it should be noted that Unicity has over 100 more licences than Duffy's. There is no indication that Duffy's does not have an adequate level of operational efficiency. Thus, it would appear that if the majority of licence holders who formed a new company came from other than Duffy's, the City could readily support three major companies operating at comparable levels of operational efficiency.

Should a third major dispatch company arise, it would certainly have beneficial effects on the level of service competition. The new company would likely be quite aggressive in its pursuit of market share, and existing operations would have to respond with their own initiatives or be at risk of losing their market position. The general public would clearly be the winner.

There have been some recent positive developments on this issue. Star Taxi, with its ten licences, has been purchased by the holder of six licences at Duffy's. The new owner has changed the operating name to Spring Taxi. Although the intentions of the new owner are not known, should there be a significant number of licence holders who wish to leave the two major companies to join Spring Taxi, it is quite possible that the industry will have a third major competitor shortly. The Board should encourage this eventuality, due to the enhancement of service competition that will result.

RECOMMENDATION 1

It is recommended that the establishment of a third major dispatch company in Winnipeg be facilitated.

2.4 The Structure of Unicity Taxi

Unicity Taxi currently is the actual holder of 222 licences, through two corporate entities, Moore's Taxi (1984) Ltd. o/a Unicity Taxi and Unicity Taxi Ltd. 18 licences are held in the names of independent owner-operators, o/a Unicity Taxi.

Subsection 4(1) of the Taxicab Act states:

> Licence to operate
> 4(1) No person, by himself or by an agent or employee, shall carry on the business of keeping a taxicab or taxicabs for hire, or hold himself out or advertise that he is carrying on that business, or keep for hire or operate for hire any taxicab, in the City of Winnipeg in any year unless he holds a subsisting licence from the board permitting him to do so.

Thus, anyone who "operates" a taxicab for compensation must be the holder of a licence.

The Board is of the opinion that the "operator" of an individual taxicab is the person who controls and is responsible for its operation, and who bears the substantial portion of the risk of profit or loss from its operation.

In the case of Unicity Taxi, each "shareholder-owner" in the Company is "assigned" a particular vehicle. The shareholder-owner determines when his particular vehicle is on the road, and who actually drives it, not the Company management. The shareholder-owner is considered by the Company to be responsible for the operation of the particular vehicle. The shareholder-owner receives all revenue earned by his particular vehicle, less the cost of dispatch services and other standard charges, and is responsible personally for all costs in respect of the operation of the vehicle, including the purchase of its ultimate replacement. He therefore assumes all risk of profit or loss in respect of the operation of his particular vehicle.

In the absence of evidence to the contrary, the Board is of the opinion that Unicity Taxi does not "operate" taxis within the meaning of the above subsection of the Taxicab Act. Rather each individual shareholder owner is the true operator of his assigned vehicle.

It is apparent that Unicity Taxi is in reality a dispatch service operated by an association of owner-operators under the guise of a corporate licencee.

If Unicity operated taxis within the meaning of the Act, and the shareholder-owners were merely holders of an interest in a licence holder, no particular vehicle would be assigned to individual shareholders; Unicity management would determine who drove each vehicle and when it was on the road; Unicity would directly and solely assume responsibility for the operation of all vehicles; and Unicity would assume the risk of profit or loss, with each shareholder merely sharing in the net profit of the Company as a whole, in proportion to his or her interest as a shareholder.

Therefore, in the absence of evidence to the contrary, it is apparent the licences are required by the Act to be in the name of the individual shareholder-owners, not the Company.

This requirement could perhaps be continued to be ignored, or perhaps an amendment to the Act sought, if to do so would serve the interests of the public. However, it does not.

Under the current situation, the public bears the major disadvantages of licence concentration, without the major advantages.

As indicated above, given the problem pointed out by Papillon, of a company with growing demand for its services not being able to use resources outside the industry due to entry control, the Board should do what it can to facilitate the movement of licence holders from one company to another, if it is to encourage the growth of a third dispatch company. Without licences being in the name of their true beneficial owners, the mobility of the licence holder between dispatch services is impaired.

Without adequate control over the operations of the vehicles by the large licence holder, control over service levels is diminished, and the opportunity for more efficient utilization of vehicles and other potential scale economies is lost.

Further, a practice has developed whereby licence holders at Unicity sell their share in the Company, but continue to hold it in their name as security for the purchase price. Sometimes, several sales have taken place, and the registered owner has not been the beneficial owner for years. In such circumstances, the Board is not in a position to know who is actually operating the vehicle and against whom it should be taking disciplinary action. In some cases, even Unicity itself does not know who the beneficial owner of the share is.

The current licence holding situation is also quite inequitable, as it results in differential treatment of the two major companies despite the fundamental similarity in their true operational structure. Duffy's licence holders are required to obtain Board approval of transfers, whereas Unicity share transfers occur without any Board involvement whatsoever. Should the Board revoke the licences of Unicity and reissue them to the shareholder-owners, the Board would also gain more effective control of licence transfers.

As stated by the Chamber of Commerce in its submission:

> " . . . the Board must control licence transfers to ensure adequacy of the person buying the licence; hence the discriminatory practice of allowing Unicity prior sales ownership transfer, while insisting other cab ownership transfers must have prior Board approval of the new purchaser, must end immediately."

RECOMMENDATION 2

It is recommended that Moore's Taxi (1984) Ltd. o/a Unicity Taxi and Unicity Taxi Ltd. be required to attend a hearing before the Board to show cause:

(a) why the licences held in their names should not be revoked, and reissued to their individual shareholder owners, on the ground that Unicity Taxi does not "operate" taxicabs within the meaning of subsection 4(1) of the Taxicab Act, whereas the shareholder-owners do so and accordingly are required under the law to hold a licence in their own right; or, alternatively,

(b) why the Board should not order Unicity Taxi Ltd. and Moore's Taxi (1984) Ltd. to re-organize the structure of Unicity Taxi, and properly exercise control over and assume responsibility for the operations of taxicabs operated under their licences, in a manner consistent with subsection 4(1) of the Taxicab Act.

3. INDUSTRY FINANCIAL POSITION

3.1 Limitations of Analyses Performed

The Touche Ross study assumed, based on "interview data and other studies", that a taxicab in Winnipeg averages 20,000 trips per year at an average of $5.00 per trip, for a total revenue of $100,000 per annum. Based on this assumption, the study concluded "the rates of return on capital employed by licence holders may be excessive for a regulated industry", "the tariff structure may be too high", and "no information has been presented to justify existing rates of return". The study recommended the Board "undertake a detailed revenue and cost analysis of the industry to determine conclusively if excessive returns on investment are being made by licence owners", and "pending the outcome of this study, there should be no change in existing tariff rates".

In February, 1988, prior to the release of the Touche Ross study, the industry applied for a fare increase. In their submission filed at the hearing in September, 1988, the industry representatives stated a typical cab operation earns approximately $60,000 in revenue, and does not adequately remunerate the owner for his own driving time, let alone provide him with an adequate return on the major capital investment tied up in a licence. For this reason, a tariff increase of 13.9% (for a 10 km trip) was sought, although in the submission in support of the increase, it was represented that even a 25% increase would not be sufficient to provide reasonable wages and a reasonable return.

The Board was called upon to determine the accuracy of these two completely conflicting assessments of the industry financial position.

The validity of the Touche Ross assumptions can be summarily rejected. There was no empirical study done whatsoever. The number of trips per year and the average revenue per trip were both apparently merely surmised. The "sources" were not disclosed, and therefore there is no basis for confidence in the reliability of the information.

The study assumed the taxi was on the road 24 hours a day, 365 days a year. Allowing only for down time of 3 hours a day and 30 days a year reduces revenue by $20,000, accepting the assumptions that average revenue per trip is $5.00 and the number of trips would be reduced to about 16,000.

As related above, the Board retained the services of an economic research analyst to perform a revenue and cost analysis and other related research, in order to inquire into the validity of the application for a substantial fare increase and the effect of new vehicle standards on the financial position of the industry. Such work had never before been done.

Although the work performed by the Board's research analyst was valuable, its value did not lie in discovery of the truth between the Touch Ross views and the picture presented by the industry. The research (recommended by Touche Ross) was impossible to fully perform.

Of the 20 owner operators selected for the study, only 13 cooperated with the researcher. Of the 13 who cooperated, only six operated the cab on a full-time basis; the others were operated by semi-retired individuals. Most operating statistics which allow comparison between financial statements and which are necessary to develop a financial model were guessed at by the operators. The required records simply are not kept.

Further, during the course of the study other Canadian jurisdictions were contacted. No other jurisdiction had performed the kind of analysis recommended by Touche Ross. No other jurisdiction required the filing of financial information with the Board. The reason, frankly given by all, was that the information provided would not be credible, and therefore could not form the basis of any decisions.

It appears that many readily assume taxi operators and drivers hide revenue. Touche Ross assumed it. Regulatory authorities across the country assume it. Mr. Grant in his submission doubted the information provided to the Board by the owners, "given the avenues for undeclared income in the industry". Another presenter at the hearings had the courage to state his belief as to the mechanism by which revenue is hidden. According to him, revenue earned by part-time weekend drivers never finds its way to the books.

Licence holders themselves suggested at the hearings that the drivers take part of the owner's share of revenue for themselves. As long as what the owner receives is not way out of line, they do not question the driver or require him to maintain proper records of trips. Mr. Kapusta, General Manager of Duffy's Taxi Ltd., put it this way in his submission to the Board:

> "People listen to a driver telling them how much money he makes, but nobody sees what he turns into the boss. He takes in $200.00, marks down $170.00, takes his 50% which is $85.00 and plus the $30.00 he stole and what he makes in tips."

It seems little has changed in this regard since the Taxicab Inquiry Commission of 1972, which found (at page 21 of the Final Report):

> "Some owner-operators, when hiring drivers, whether full-time or part-time, seem satisfied with a "fair shake" from the driver and allow the driver to take his percentage from the gross take before handing it over to the owner-operator. This is called "skimming off the top" in the industry and appears to be quite prevalent among the owner operator group. This means in effect that no income tax is paid or collected, no unemployment insurance premiums are paid, etc. This is agreed to by the owner, it was suggested at the Winni-

> peg hearings, to minimize "high flagging" (failure to turn on the meter and pocketing the customer's fare).
>
> In other words it seems a price the owner-operator is prepared to pay and it would also appear that it is a price the driver is willing to pay for the income supplement.
>
> It ties in to some extent with the custom elsewhere throughout North America in the taxicab industry. It saves the operators money in that they don't have to keep accounting records, or pay their share of these contributions."

There was some evidence gathered by the Board which would tend to support the allegation that licence holders understate their income. An operator has reported revenue per hour at a level approximately 60% more than the average of those surveyed by the Board, despite comparable total annual hours of operation. Such a large variation in the level of income reported is simply too great to be explained by a difference in the ability to attract fares or monitor the take of the drivers. A fair inference may be that the operator who reported the highest earnings is more honest than those who reported the least, not just a better or luckier cab operator.

The strongest evidence that the industry has not been fully candid with respect to its financial position comes from their own assertion that they do not make a living wage and receive no return on the investment in the licence.

It would be completely irrational for anyone to pay about $50,000 for a job where less than minimum wage is earned for one's own time investment and returns are so low they do not even cover the interest costs of borrowing even a portion of the licence purchase price.

The Board is not prepared to make an express finding that the revenue figures provided to it are false. However, it would be irresponsible for the Board to ignore this possibility, in the face of the allegations received and the evidence corroborative of those allegations.

Without the cooperation of the majority of the members of the industry in the institution of substantial new record keeping requirements, the Board will never be in a position to confirm or refute the revenue information provided by industry representatives. No assistance to the industry in the form of a fare increase above demonstrated cost increases can even be considered in the current circumstances.

Without appropriate record keeping requirements, enforced by the Board, the Board cannot and will not directly assess whether returns in the industry are inadequate or excessive. As long as licence prices are relatively stable, the Board can only assume intervention by way of a tariff readjustment beyond demonstrated cost increases (or decreases) is not called for.

3.2 Financial Model of a Winnipeg Taxi Operation

In assessing the financial position of the typical Winnipeg taxicab operation, the Board must determine what it should consider typical.

There are a number of factors which affect the income of a taxicab operation and which vary among operators. These include whether the cab is operated on a full or part time basis; the total number of hours and days the cab is on the road; the extent the owner drives the cab himself or employs drivers; the hours the owner chooses to drive and the hours an employed driver is utilized; the amount of the dispatch fees; the number of vehicles operated; the amount invested in a vehicle; whether propane or gasoline is used; and other cost variations, such as the cost of repairs.

For the purpose of modeling and sensitivity analysis, the Board has determined that it should consider the financial position of a licence holder who operates the cab on a full-time basis, driving the vehicle himself half the time and equally sharing the revenue taken in by an employed driver during the other half of the hours of operation.

The revenue and costs of a typical Winnipeg taxi operation of this kind, as disclosed in the Board survey, are contained in Exhibit 1.

From the survey conducted by the Board, a full time operator has his vehicle on the road an average of 21.1 hours a day, 336 days a year, for a total of 7090 hours of operation per year. The cab earns on average $8.60 per hour, for a total revenue of approximately $61,000 per year.

Fuel costs are based on the assumption the vehicle has been converted to propane.

Dispatch costs are substantially different between the two major companies. An approximation of the weighted average of the two has been used.

The capital investment in a vehicle is assumed to be $5,100, (although the survey found an average of $4,800.), depreciated at $1,700 per year for its expected life of three years. The higher number was chosen to be consistent with other industry representations and to simplify the model. A further $1,000 is invested in equipment, depreciated over ten years at $100 per year.

15% is considered an appropriate return on investment. The return is calculated solely on the amount invested in a vehicle and equipment, for the reasons outlined below in section 3.5.

In the model, the owner is assumed to be remunerated for his own driving time at the same rate as the driver. The figure selected for remuneration for management services is arbitrary; it is a balancing figure. However, if one assumes the owner spends an

EXHIBIT 1

FINANCIAL MODEL

1988 WINNIPEG TAXI OPERATION

Meter revenue		60,950
Expenses		
Fuel	7,850	
Repairs and maintenance	7,300	
Employed drivers' wages	15,250	
Employed drivers' benefits	1,050	
Professional fees	200	
Dispatch fees	5,000	
Insurance	3,100	
Licences	200	
Depreciation	1,800	
Miscellaneous	250	
Owner inputs		
Driving time	16,300	
Management services	1,750	
Return on investment in vehicle and equipment (Return on $6,100 at 15%)	900	
Excess profit or loss		0

Note: figures have been rounded to the nearest $50.

hour a day for every day the cab was on the road, arranging drivers, doing paper work, etc., $1,750 per year would amount to $5.21 per hour, more than the amount earned driving of $4.60.

3.3 Adjustment of the Model Considering the Licence Value

Adjustment of the model in Exhibit 1 to assess what the returns in the industry might actually be, based on the prevailing licence value, is useful.

If the model truly reflected the financial position of the typical cab operation, it is highly unlikely that a licence would have any value whatsoever. Only subsistence level returns exist. Alternative employment at minimum wage, perhaps even welfare, would be at least as good as paying any significant amount of money to operate a cab.

It may be reasonable to assume that the model is correct in every respect except the amount of revenue and driver remuneration. Given the requirement for documentary evidence of expenses for income tax purposes, it is not likely they are overstated, and it is even more unlikely they are understated for obvious reasons.

The value of a licence should reflect the capitalized value of the future income stream prospective purchasers of the licence expect to receive from the taxi operation over the expected life of the licence, in excess of the income they could typically earn in alternative endeavors.

Given the long term stability of the regulatory system, it may be reasonable to assume for the sake of simplification of the model that the real value of annual "excess earnings" is not expected to change from one year to the next, as did Prof. Grant in his submission (p. 26), or in alternative terms, that the expected life of the licence is indefinite. Under such circumstances, the present value of a licence can be approximated as the amount of excess earnings divided by an appropriate discount rate; and the expected annual excess earnings can be estimated by simply multiplying the present value of a licence by the discount rate.

On the other hand, it may be more appropriate to assume that there should be some time horizon over which the capital cost of the licence would be expected to be recovered by the purchaser, from the excess earnings. The level of excess earnings at a given licence price (the capitalized value of the excess earnings), would be higher with this assumption than if one assumed no capital recovery was expected.

The Board prefers the latter approach to that of Prof. Grant. It is believed a rational purchaser would negotiate a price that would allow the excess returns from the business to recover the capital invested in the licence over time. The approach taken by Prof. Grant, in failing to allow for capital recovery, may tend to understate the level of excess earnings of the typical operator.

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EXHIBIT 2

FINANCIAL MODEL

1988 WINNIPEG TAXI OPERATION

Adjusted assuming a rational valuation of a licence at $45,000

Meter revenue		77,450
Expenses		
Fuel	7,850	
Repairs and maintenance	7,300	
Employed drivers' wages	19,350	
Employed drivers' benefits	1,350	
Professional fees	200	
Dispatch fees	5,000	
Insurance	3,100	
Licences	200	
Depreciation	1,800	
Miscellaneous	250	
Owner inputs		
Driving time	20,700	
Management services	1,750	
Return on investment in vehicle and equipment (Return on $6,100 at 15%)	900	
Excess profit		7,700

Note: the excess profit of $7,700 per year is the amount required to recover the $45,000 invested in the licence in 15 years at a rate of return of 15%.

However, the length of the capital recovery period, or even if capital recovery from excess earnings is expected by purchasers, might be a function of the relative bargaining strength of the parties, which in turn may be affected by external factors such as the level of unemployment. Where there is no alternative employment available, the purchaser may have to be satisfied with simply buying himself a job.

Thus, the time horizon for capital recovery may be quite long, perhaps the length of time purchasers would typically expect to hold the licence. As a compromise, it will be assumed for the purposes of this analysis that prospective purchasers expect to recover the capital invested in the licence from excess earnings over a 15 year period.

Selection of the discount rate has a substantial effect on the value of a licence. The higher the discount rate, the higher the excess earnings that may be imputed from a given licence price. Again, given the long term stability of the regulatory system, and the protection from new entry it provides, it may be reasonable to assume a moderate discount rate of 15%, which approximates the current cost of borrowing for prospective purchasers.

The average valuation of the licence alone in all sales approved by the Board in 1988 was approximately $45,000. Assuming a 15 year expected capital recovery period, with a $45,000 capital investment and a 15% discount rate, the owner's excess earnings should be valued at $7,700, not nil as indicated in Exhibit 1 (using a capital recovery formula). (If the expected capital recovery period is 5 years, this figure would be $13,400; 10 years, $8,950; 20 years, $7,200; if the capital was not expected to be recovered, the "excess earnings" would be $6,750).

It may be reasonable to assign some value to the non-pecuniary benefits of owning a taxi, such as assurance of employment, being "your own boss", being able to select your own hours, etc., although it is doubtful such benefits would be valued highly. On the other hand, arguably these benefits have already been taken into account in the low wage for which operators seem to be willing to work, and the assignment of any amount would be completely arbitrary.

Assuming revenues are split with the drivers, and drivers' benefits are about 7%, it would take about $16,500 of additional revenue in order for the owner's return as an owner to increase by $7,700.

Exhibit 2 models the effect of assuming revenue of $77,450, with all costs remaining as in Exhibit 1, except drivers' wages and benefits. If Exhibit 2 truly reflects the financial position of a typical Winnipeg taxi operation, it might make economic sense for one to pay $45,000 for a licence. (If the capital recovery period was assumed to be 5 years, the total revenue required would be $89,850; for 10 years it would be $80,200; for 20 years, $76,450; assuming no capital recovery, total revenue would be $75,500.)

In the scenario portrayed by Exhibit 2, driving time remuneration rises to about $5.84 per hour (including all benefits), although it is possible that driving time was understated as well, and thus the actual wage may be lower.

It should be noted that if drivers are willing to work for less than $5.84 per hour, as owners control the particular hours worked, the owner's return could be higher, and thus the amount of total revenue needed to justify the purchase price of the licence could be lower.

Further, as it is the owners who gain the non-pecuniary benefits of cab ownership, they may be prepared to drive for less remuneration than drivers; thus the amount of total revenue needed to justify the purchase of a licence could be lower still.

One should not only consider the hourly level of earnings of a cab driver in determining the rationality of the purchase of a licence. The number of hours of work available is likely also a factor, resulting in somewhat higher total income than competitive forms of unskilled labour where the hours are more limited. This would make a somewhat lower hourly rate more acceptable to the driver-owner.

The average price for goodwill alone in 1987 was approximately $51,000. As indicated above, the average for 1988 was $45,000. The average price for 1989 rose back up to about $48,500, and the average of the first two sales in 1990 was $51,450. It appears licence prices may have been discounted by purchasers by about 10% during 1988 and early 1989 due to the uncertainty over whether the licence quota would be increased. From this it follows that the actual revenue potential of a typical cab operation could have been in excess of $77,450 in 1988.

It should also be underscored that it is only those who have held the licence for many years who receive the full amount of the excess earnings from the operation. A new entrant who purchases the licence at $45,000 or more, after allowing for the opportunity cost of the purchase funds or the cost of borrowing, has no profit beyond the amount earned for his own driving time and management time, and likely some contribution to recovery of the capital invested in the licence. With the exception of this capital recovery amount, which really can only be assumed to exist, all the "super-normal" returns are received by the sellers.

It is also important to understand that "excess earnings" are only excess in an economic allocative efficiency sense, not in any moral sense. What it is appropriate or fair for a cab owner-operator to earn for his labour and investment may be a different matter. When one says there are "excess earnings" in the industry, one is not alleging that cab owners are getting rich. Indeed, the analysis indicates that even after the owner has fully recovered the capital invested in the licence, there are excess earnings in the range of $7,700, which adds only about $2.17 to their hourly return for driving time.

At the same time, however, it should not be forgotten that this amount is not related to any economically productive activity on the part of the licence holder; depending upon the extent to which owners choose the best hours to drive themselves, if the owner decided to use entirely employed drivers he would earn the return on the licence just because it is held in his name. And upon the sale of a licence that has been held for a number of years, the entire amount of the selling price is received as a capital gain, solely because of the limit on the number of licences imposed by the regulatory system, and not as a result of the industry of the operator.

In conclusion, analysis of the implications of licence values in the $45,000 range strongly supports an inference that purchasers of a taxicab licence in Winnipeg expect potential gross revenues from the operation of a taxicab under the licence on a full-time basis to be in the range of $70,000 to $90,000 per annum. Presumably, purchasers of licences have sound information available to them that is not currently available to the Board upon which to base this expectation.

3.4 Direct Regulation of Licence Transfer Prices

The Board has stated that one of the primary purposes of taxicab regulation is to stabilize the earnings of drivers and owners, at a level above that which might occur in a freely competitive market. The rationale for doing so was described in the "Alternatives" discussion paper as follows (pages 8-9):

> "A fundamental rationale for economic regulation of the taxi industry is that with free entry, returns to owners would be too low to allow replacement of equipment and reasonable working conditions for drivers, and inconsistent service from a generally unstable industry would result. This would occur as barriers to entry are low and the supply curve of the industry would be infinitely elastic at a price that would allow only a subsistence level; in other words, there is a vast pool of unemployed who for the price of a used car could buy themselves a job.
>
> Under a regulated system, the Board attempts to match supply and demand at a price that will allow a stable industry with reasonable returns to owners, fair wages for drivers, and adequate service to the public. . . . However, by not adequately regulating licence transfers, the Board has greatly undermined its effectiveness in achieving these goals."

The Taxicab Inquiry Commission of 1972 was also confronted with the issue of regulating the amount of "goodwill", and made the following observations (pp. 31-32):

> "The concern of the Commission and the authority that sets the fares must include the amount of the capital investment. The fare will necessarily reflect the

> amount an owner must earn in order to repay and replace such capital investment. It is therefore in the public interest to control the amount of goodwill that is paid by a purchaser to a vendor. . . .
>
> It is therefore established that one of the factors that determine the amount of the fare that may be charged is a fair return to the investor. This factor is directly dependent on the price paid by an investor to purchase a taxicab. . . .
>
> This Commission cannot close its eyes to the exorbitant amounts being charged and paid in the sale and purchase of taxicabs by private interests. It cannot ignore the consequences of the ever rising amounts of goodwill being paid. . . . Where the evidence discloses such outrageous costs . . . , control in the public interest becomes essential. Since the sale and purchase of taxicabs is controlled by a public authority, such public authority must assure itself that such transactions are consistent with sound business practices and not damaging to the public interest."

The Commission went on to recommend that the Board establish a formula for the maximum price at which it would approve a transfer.

Similar to the 1972 Commission, the Board had proposed in its "Alternatives" discussion paper that it fix the value of licences by refusing to approve transfers above the current value. The rationale for doing so was expressed as follows:

> "By allowing the transfer of licences at any price, the Board has allowed the returns necessary to replace equipment and provide a reasonable return to owners to be entirely bid out of the system. Just as in the case of an unregulated industry, there is apparently a very large pool of individuals and families who are not in a position to find other employment, but who are in a position to get enough funds together to buy jobs for themselves through the purchase of a taxi licence. The price they are apparently willing to pay is that which after interest costs allows only a subsistence level of return for the individual or family, comparable to welfare levels. Aside from the expectation of an income, purchasers pay this price in the hope that in the long run they will have a valuable asset paid for, and in order to maintain the human dignity employment provides.
>
> The Board is of the view it cannot effectively regulate without effectively controlling licence transfers. Any increased revenue from a fare increase will only result in the price of the licences increasing to the point where there would be a neutral effect on the financial health of the new entrants, and the returns the regulatory system intended be spent on better vehicles,

> better wages, and better service would be taken from the industry and transferred to the vendors leaving it. As well, the returns for those who purchased their licences many years ago would increase with each fare increase that allowed as a basis for the return on investment the current value of a licence. That is, if the Board allowed carriers a return on the amount paid for a licence, as each successive rate increase was granted, the price of a licence would increase, justifying a further rate increase in the next year, and so on year after year. It would only worsen the problem currently faced by the Board that some industry members perhaps could afford to invest in better equipment but others can barely pay for their current vehicle, depending on what price was paid for their licence."

To put it another way, once the Board allows the transfer of licences, or fails to regulate the price at which they are transferred, the Board has no means to control the "adequacy" of the return to licence holders. Any return to owners above what prospective owners might earn in alternative endeavors is largely bid out of the system by the new entrants, and pocketed by the sellers. Where leasing is allowed, the licence holders can simply hold the licence and pocket the super-normal returns, leaving the lessees only marginally better off than if there were no regulation, if at all.

This brings one to the dilemma faced by the Board in times of worsening economic circumstances for the industry, or after a period where licences were sold at abnormally high levels.

About three years ago, licences were being transferred for as much as $60,000 for the licence alone, about $10,000 more than the current price. A purchaser who bought at that level is likely not recovering any portion of the capital paid for the licence, and if business fell off significantly he could be very readily operating a money losing enterprise.

Without controlling licence transfer prices, there is nothing the Board can do to improve the financial position of those who "paid too much" for their licence without providing a windfall to other members of the industry, and effectively "upping the ante", and thus the risk of loss, of new entrants.

Papillon (1982, pp.60-63) described the problem in detail as follows:

> "With a limited number of taxi licences, along with an increasing demand for taxi services, there arises an earnings disparity between taxi operators and other workers who could be taxi operators. These disparities create a demand for taxi licences and push up their price, which was nil (aside from issuing fees) before. The new price of the licences is based on both the higher earnings expectations of nontaxi operators wishing to enter the field and on the nonpecuniary advantages and disadvantages inherent in a taxi opera-

> tor's work. Specifically, the price of a taxi permit is equal to the capitalized value of the net differences (plus or minus the nonpecuniary advantages and disadvantages) in earnings between the two groups of workers. In addition to the disparities or excess earnings enjoyed by taxi operators who enter the industry before the number of licences is limited, a large capital gain can also be realized by selling the licence. . . .
>
> Thus, veteran drivers fully or partially benefit from excess revenues without having to pay a high price for their licence. But, for a novice taxi driver, the situation is not improved by limiting the number of licences. Someone who wishes to enter the industry must compete with all potential taxi operators and, to obtain a licence, he must agree to pass on all excess earnings resulting from the limitation to the person selling the licence by paying him a price equal to the capitalized value of these excess earnings. In order for the new entrant to gain access to these net excess earnings, there must be new increases in demand and/or increases in fares with little or no drop in demand as a result of the higher fares. Since the demand for taxi services cannot be expected to grow indefinitely in a given area, we can predict that, in time, the increases in earnings will cease or result solely from fare hikes with little or no drop in demand as a result of the higher fares.
>
> . . . [Licence] limitations may actually amplify the effects of normal instability in the taxi services market for an owner/operator. . . . Should there be a decrease in demand and/or an increase in fares that in turn reduces demand, the excess earnings that he collects as a taxi owner would not cover the cost of the capital tied up in purchasing a licence, in which case the net excess earnings would be negative, and his earnings would drop accordingly.
>
> Limiting the number of taxis is therefore no remedy for possible instability in the taxi services market. Quite the contrary, by increasing the fixed costs, especially the cost of capital tied up in the purchase of a licence, such limitations amplify the instability of earnings of a taxi owner, whether he operates his cab himself or not."

The importance of this question to effective taxicab regulation was recognized by the Regional Municipality of Ottawa-Carlton Licencing Committee. In its Report on Taxi Regulation (1989), the Committee, after finding the "transferability of taxicab licences has had few positive effects on the taxicab industry" and that it "encourages speculation" (see Vol. 1, Appendix B, pp. 4-7), recommended the following policy be adopted (Vol. 1, p. 3):

> "that the taxi plate is a public municipal privilege to provide a taxi service and the creation of an artificial or street value for such plates as well as the sale of such plates is not in the public interest and should be eliminated;"

The Board received no support whatsoever for its proposal to fix the value of "goodwill" in the licence. The industry opposed the proposal; the business community opposed it as well. The Chamber of Commerce submitted (page 2):

> "The market price of all licences should remain privately negotiated but obviously registered and approved by the Board and without Board interference. The Board should scrap any control over the ceiling amount or other interference into the rate of return."

The position of the Chamber is somewhat surprising, in that if licence transfers were properly regulated years ago there would be sufficient earnings today to pay for new vehicles, instead of much of those earnings having been capitalized and taken out of the industry by sellers.

Prof. Grant opposed licence price regulation, primarily on the basis that a black market would develop which would be beyond the control of the Board and which would have substantially the same effect as open Board approval of licence transfers at any price, on the effectiveness of the Board in attempting to improve the lot of the industry on a permanent basis.

RECOMMENDATION 3

It is recommended that the Board not directly regulate the price at which licences may be transferred, due to the lack of support for such regulation and the legitimacy of concerns over its enforceability.

RECOMMENDATION 4

It is recommended that the Board not consider whether taxicab owners earn a "fair" return on investment as owners, in the establishment of the fare structure, due to the lack of an effective means to ensure all or a large portion of the returns in excess of what might occur in a freely competitive market or in alternative endeavors available to taxi operators are not capitalized and taken from the industry by sellers of licences.

3.5 Return on the Value of a Licence

It follows from the discussion in the preceding section that to allow a return on the investment in a licence would be inappropriate.

The Board takes the view that the value of a taxi business over and above the value of the vehicle and equipment is entirely an artifact of the licence quota and fare regulation. It represents a capitalization of the greater returns the industry enjoys over what would be normal in a freely competitive, non-regulated environment, or in alternative endeavors available to taxi operators and for which they would be qualified. To increase fares to allow a return on this amount would only result in an increase in the value of a licence, which would start a cycle of fare increase applications to bring the return on the amount invested in a licence to the prescribed level.

Indeed, to a large extent the value of a licence is a direct measure of the extent to which the regulatory system has compromised its duty to the users of cab services to ensure reasonable fares.

Unfortunately, once the licence price has been allowed to rise, the money can not be taken back from the vendors of the licences and it would be very inequitable indeed to take remedial action that would have the effect of extinguishing an asset that has been paid for with the express approval of the Board. All the Board can do is take measures to ensure the problem does not worsen.

RECOMMENDATION 5

It is recommended that in any financial modeling related to the establishment of the fare structure, the amount paid for a licence be ignored, with a return on investment being allowed solely on the actual capital investment in vehicles and equipment on the part of the owner.

3.6 Future Record Keeping and Filing Requirements

For a system of economic regulation to be effective, there must be a substantial degree of willing compliance on the part of the regulated sector, based on a belief in the legitimacy of the requirements of the regulating agency and respect for its authority. Those unable or unwilling to comply with lawful requests must be the exception and not the rule, or a prohibitive volume of resources would have to be committed to compliance functions.

Both of these prerequisites to effective regulation are absent in the Winnipeg taxi industry, particularly in respect of requirements pertaining to financial matters.

The Board had proposed that operators be required to file annual returns of financial information. Although the vast majority of non-industry presenters at the hearings, and even some industry presenters (eg. accountant and taxi owner K. Cherney) supported the annual return proposal, the Board does not believe it can effectively implement it at this time.

The Board is of the opinion that the opposition in the industry would be so great as to preclude the effective implementation of the record keeping requirements necessary to allow the provision of meaningful and reliable financial information to the Board in the form of an annual return. Given the current level of opposition and lack of sophistication within the industry, the Board's staff resources would have to be more than doubled by the addition of a team of auditors to audit and counsel operators in order to ensure meaningful compliance.

As stated by taxi driver R. J. Donoghue in his submission (page 1):

> "The Board has asked the owners to submit financial statements. This I have never heard of in any cab industry I've been associated with and is a poor way to find if a meter rate increase is needed because documents turned in could be doctored to reflect whatever an owner wants you to see and no amount of monitoring could change this."

The Board is not prepared to assert at this time that the benefits to be gained from obtaining the information would outweigh the costs of the measures necessary to do so.

The Board is of the view that it is the industry that would benefit from proper record keeping requirements and financial reporting. The Board would be in a better position to make appropriate adjustments to the tariff to ensure viability. Operational statistics would better support claims of the adverse effect of changes to the licence quota. The record keeping requirements would preclude driver theft.

However, should the industry become satisfied of the benefits to the industry of the Board having sound financial information on the industry it regulates, the Board would be pleased to assist in the establishment of a standard system of accounts and other record keeping requirements.

RECOMMENDATION 6

It is recommended that the Board not institute financial reporting requirements for taxicab licence holders at this time due to the level of resources that would be necessary to enforce meaningful compliance and the fact no other jurisdiction has such requirements. However, the Board remains of the view that the provision of accurate revenue and operating data is essential to effective economic regulation of taxis. Accordingly, this issue should be reviewed after implementation of Recommendation 28 respecting receipt printing meters and implementation of the federal goods and services tax.

3.7 Demand Elasticity

In the course of being interviewed by the Board's research analyst, some owners cautioned that fares cannot be increased too much from the existing level without harming the industry financial position.

These concerns are legitimate. A fare increase will make taxicab service more expensive relative to other forms of transportation, and will also have an adverse impact on the ability of passengers to pay for taxicab service. As a result, people may switch to other modes of travel, or reduce or even entirely eliminate their taxicab trips. If the reduction in demand is sufficiently great, a fare increase could actually worsen the financial position of the industry.

For a particular commodity, the relationship between a change in the price of that commodity and the resulting change in the quantity demanded is expressed through the "own-price elasticity of demand". This demand elasticity is measured by taking the ratio of the percentage change in quantity demanded to the percentage change in price. If the percentage change in demand is less than the percentage change in price, the elasticity is less than 1 and demand is said to be "inelastic". If the percentage change in demand is greater than the percentage change in price, the elasticity is greater than 1 and demand is said to be "elastic".

There are two special cases. If demand does not change at all in response to a price change, the elasticity is 0 and demand is "perfectly inelastic." In the case of "unitary" elasticity, the elasticity is equal to 1, because the percentage change in demand is exactly equal to the percentage change in price.

Whether demand for taxicab services is elastic or inelastic will determine how taxicab operators' revenues are affected by a fare increase. If demand is inelastic, a fare increase will raise total revenue, since the percentage decrease in demand (number of trips) is less than the percentage increase in the fare; if demand is elastic, a fare increase will actually cause revenues to fall. When demand is perfectly inelastic, revenue will change in exact proportion to the change in fare; in the case of unitary elasticity, revenue is constant and does not change at all with changes in the fare.

The elasticity of demand for taxicab service in Winnipeg has not been measured. Papillon (1982, p. 110) refers to studies conducted in Washington, D.C. in 1970, in London, England in 1953 and 1971, and in Chicago. These studies found demand elasticities close to unity or very slightly higher, indicating demand for taxicab services may be somewhat elastic.

On the other hand, Shreiber (1975) found "empirical evidence indicates that the elasticity of demand in the relevant range of cab fares is inelastic, or anyway does not exceed unity".

If the Winnipeg taxicab market has elastic demand, the task of calculating fare increases to cover increased costs is more complex than outlined elsewhere in the report, where increased costs are assumed to be offset by a fare increase which provides additional revenue equal to about twice the amount of increased costs (since about half of any additional revenue is absorbed in increased driving costs). The implicit assumption is that demand is perfectly inelastic, i.e. that the demand for taxicab service is not affected by changes in the fare.

If the elasticity of demand is 1 (unitary elasticity), fare increases cannot generate higher revenue in order to cover higher costs; with unitary elasticity, the percentage increase in the average fare would be exactly offset by an equal percentage decrease in the number of trips, leaving total revenue unchanged. For the same reason, driver costs cannot be influenced through fare changes.

With elasticity of 1 or higher, to restore the taxi operation to "normal" profitability, fares must be increased to such an extent that the number of trips are reduced to the point where the resulting reduction in trip-related costs (fuel, repairs, and maintenance) is sufficient to offset the increase in other costs. The percentage fare increase required to maintain the same level of profitability could be several times more than the percentage change in costs.

As demand elasticity increases, at some point, demand is so elastic that revenue falls so much the "savings" in trip-related costs are insufficient to cover both an increase in other costs and the reduction in revenue due to the higher fare. At this point, a fare increase cannot prevent a taxi operation from suffering a deterioration in its profitability.

However, despite the studies cited in Papillon, the Board is of the view that the demand for taxicab service in Winnipeg is relatively inelastic.

Professor Grant, in his submission to the Board, concludes (p. 12):

> "It would appear to be safe to assume that the demand for taxicab rides is relatively price inelastic; an increase in the fare structure is unlikely to have a major impact upon demand given that the industry provides an "essential" service to a limited market."

This conclusion is reached by looking in turn at each key group of taxicab users (pp. 10-11):

> "Business and government use of taxicab services would tend to be relatively unresponsive to changes in the fare structure. To a large extent, the provision of taxicab rides to and from the place of employment is included in many collective agreements, particularly for shift workers.
>
> . . .

> High-income earners can be assumed to be relatively unresponsive to changes in both price and per capita income. The primary desire for convenience of service would make public transit an unattractive alternative, implying that the demand for taxicab services is price inelastic.
>
> . . .
>
> In most Canadian cities, transportation to and from the airport constitutes one of the most important sources of demand for the taxicab industry. . . . This demand can be assumed to be relatively price inelastic given the lack of alternative modes of transportation: public transit does not provide a very plausible alternative to business travelers with an emphasis on speed and comfort, and tourists carrying luggage would not find regular bus service adequate. Moreover, given that much of the traffic is by non-residents, private automobiles do not pose an important alternative.
>
> . . .
>
> For low-income individuals (including the elderly), who cannot afford to purchase and operate their own automobiles, public transit represents the only alternative to taxicabs. There are many instances, however, in which bus service does not provide a viable alternative. Travel for large grocery purchases, for hospital visitations, and at late-night hours requires some other means of transportation. To the extent that the bulk of this travel is for essential purposes, demand can be assumed to be relatively price inelastic.

With respect to airport travel, the Board disagrees with Prof. Grant's rationale; for reasons explained in section 5.2.2.1, the private automobile is a major alternative to the taxi at Winnipeg's airport. However, airport travelers tend to have high incomes, and many of those travelling on business are able to charge transportation costs to an expense account. For these reasons, the airport-related demand for taxi service is still likely to be inelastic.

The Board agrees with Prof. Grant that the demand for taxicab service by low-income earners is likely inelastic. Winnipeg's transit system is excellent and its fares are highly subsidized. In such a situation, the demand for taxi service by low-income earners will strongly tend to be restricted to trips which are essential or for which there are no transit connections. In short, the demand will be limited but highly inelastic.

Public transit and taxi service are two types of transportation required by individuals who, for one reason or another, are unable to use the private automobile for certain types of trips. Since they fulfill a similar type of demand, these two modes of transportation should exhibit similar demand characteristics, and their respective elasticities of demand should not be greatly different. In the United States, the elasticity of demand for public transportation has been estimated at .4 (Lipsey, Purvis, and Steiner, 1985, p. 72). The elasticity for taxi service cannot be too far from this figure, but it is likely to be lower for the reason described above. Taxi service being more expensive than public transit, its use will be restricted to those types of trips in which the need for transportation is more essential, i.e. where the demand is more inelastic.

The findings respecting elasticity of demand in other cities are not necessarily applicable to Winnipeg. Numerous factors that affect the demand elasticity may be substantially different here, not the least of which is the level of fares in relation to the cost of use of other modes of transportation. Demand elasticity is not likely to be constant over all fare levels. It is quite possible that at very low fare levels demand would be quite elastic; many people would find it more affordable to use a cab over other modes of transport.

However, as the fare increases, at some point those who use cabs do so because there is no feasible alternative for them, or because they are well-off and therefore relatively indifferent to the level of fares. From the assessment of the demand for taxi services in Winnipeg in section 5.2 of this report, it may be reasonable to assume that in Winnipeg fares are at a level in relation to the cost of alternative modes that we have reached this point.

After weighing the available evidence, it seems reasonable to conclude that the demand for taxicab service in Winnipeg is relatively inelastic. Unfortunately, there is no data available from which to estimate a more precise value. For the purposes of financial modelling, the Board will assume that the elasticity of demand is 0, i.e. that fare increases will not affect the demand for taxicab service. This assumption probably overstates the inelasticity of the demand for taxicab service. However, it is the most reasonable assumption the Board can make in accordance with its general finding.

The Board is fully prepared to reconsider its assumption about the relationship between the fare structure and the demand for taxicab service, but only if licence holders are prepared to submit, in a format specified by the Board, appropriately detailed data on revenues, costs, and operating statistics. In this way, the actual effect of a fare increase on the financial position of the operators could be assessed.

3.8 Future Fare Increase Applications

The Board cannot abandon the investigation of financial matters entirely. When the industry applies for an increase in the tariff, there should be an onus on the industry to provide information upon which one can reasonably conclude an increase is justified.

Without adequate financial reporting, it is impossible for the Board to assess the adequacy of the tariff at any given time, or, as discussed in the previous section, to even ascertain the effect of a fare increase on industry financial position. Changes can only be made based on verifiable changes in costs, not on changes in viability that may be related to revenue changes, and it must be assumed a fare increase equal to the cost changes will generate sufficient revenue to ensure viability.

Cost changes can be verified by having the Board work with the industry to develop an industry cost mix, which is how the trucking industry justifies its applications for rate increases to the Motor Transport Board. An industry cost mix is simply a percentage breakdown of the overall cost of a typical taxi operation into major cost categories, such as fuel, driver wages, insurance, vehicle depreciation, etc. The cost mix makes it possible to take the verified percentage increase in each cost category, "weight" it by the size of its contribution to overall costs, and then calculate a fare increase which is a weighted average of all cost increases and thus exactly covers increased costs.

If, for example, fuel costs made up 20 percent of overall costs, and if the price of fuel went up by 10 percent, the increase in fuel costs by itself would increase total costs by 2 percent, justifying a 4 percent increase in fares (since half of any fare increase would be absorbed in higher driving costs). The 4 percent fare increase to cover higher fuel costs would only be a part of a larger overall fare increase, since other types of costs would increase as well. A required fare increase would be calculated for each cost category, and the total fare increase would be the sum of the required fare increases calculated for all cost categories.

RECOMMENDATION 7

It is recommended that upon an application for a fare increase the applicant be required to file satisfactory evidence of cost changes since the date of the last fare increase, and that, in the absence of evidence to the contrary, the percentage fare increase granted should be based on the increase in costs over the relevant period.

RECOMMENDATION 8

It is recommended that the Board work with the industry in the development of a percentage breakdown of costs of a typical taxi operation in order to appropriately determine the impact of changes within particular cost categories, to the overall cost of operation.

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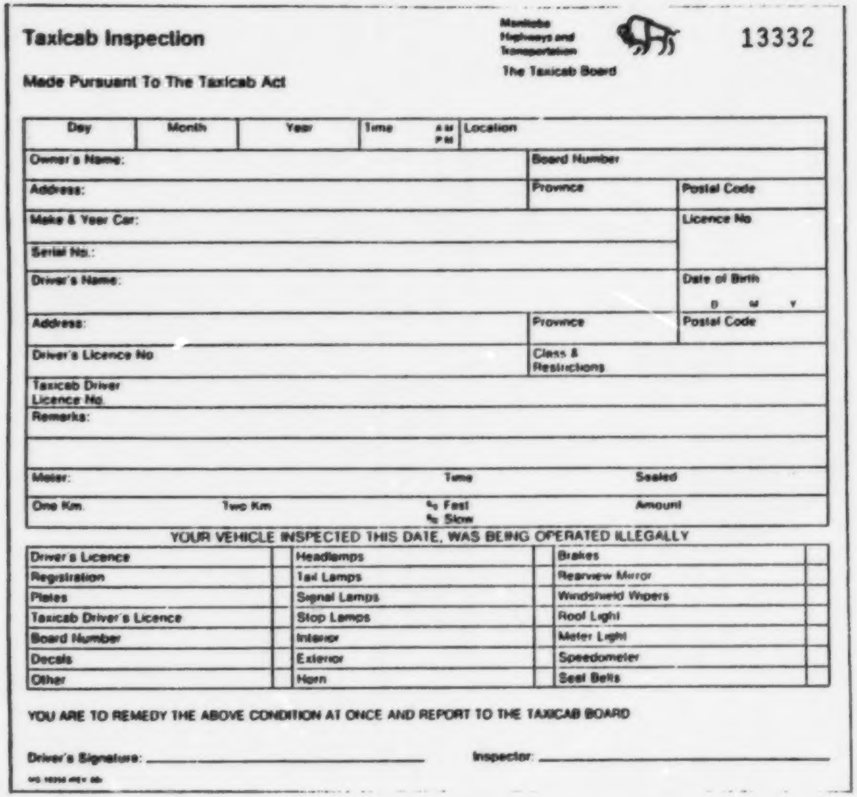
EXHIBIT 3



Taxicab Inspection

Made Pursuant To The Taxicab Act

Manitoba
Highways and
Transportation
The Taxicab Board

13332

Day	Month	Year	Time AM PM	Location

Owner's Name:	Board Number	
Address:	Province	Postal Code
Make & Year Car:		Licence No
Serial No.:		
Driver's Name:		Date of Birth D M Y
Address:	Province	Postal Code
Driver's Licence No	Class & Restrictions	
Taxicab Driver Licence No.		
Remarks:		

Meter:		Time	Sealed
One Km.	Two Km	% Fast % Slow	Amount

YOUR VEHICLE INSPECTED THIS DATE, WAS BEING OPERATED ILLEGALLY

Driver's Licence		Headlamps		Brakes	
Registration		Tail Lamps		Rearview Mirror	
Plates		Signal Lamps		Windshield Wipers	
Taxicab Driver's Licence		Stop Lamps		Roof Light	
Board Number		Interior		Meter Light	
Decals		Exterior		Speedometer	
Other		Horn		Seat Belts	

YOU ARE TO REMEDY THE ABOVE CONDITION AT ONCE AND REPORT TO THE TAXICAB BOARD

Driver's Signature: ______________ Inspector: ______________

EXHIBIT 4

MINIMUM VEHICLE DIMENSIONS
(Established in 1981)

Front Seat	Head Room	37.9 inches	96.2 cm
	Shoulder Room	55.4 "	140.7 "
	Hip Room	52.2 "	132.5 "
	Leg Room	41.7 "	105.9 "
Rear Seat	Head Room	37.2 "	94.5 "
	Shoulder Room	55.9 "	141.9 "
	Hip Room	53.7 "	136.4 "
	Leg Room	35.3 "	89.6 "
Luggage	Space	15.1 Cu.ft.	4.6 cu. mt.
Wheelbase		99.6 inches	253.0 cm

EXHIBIT 5

VEHICLE YEAR BREAKDOWN
(As at 17 Oct 89)

Year	Unicity			Duffy			Spring		Other	Cumulative	%
88	1	.4%		-			-		-		
87	4	1.7		4	2.7%		-		-		
86	15	6.2		5	3.3		-		-		
85	40	16.6		13	8.8		-		-		
84	26	10.8		22	15.0		-		-		
	86		35.6%	44		29.9%				130	32.5%
83	55	22.8		37	25.2		-		1		
82	32	13.3		24	16.3		9	90.0	-		
81	36	14.9		13	8.8		-		-		
80	28	11.6		22	15.0		1	10.0	-		
79	4	1.6		5	3.4		-		-		
	155		64.4%	103		70.1%	10	100%	1	267	66.7%
78	2	1.4		-			-		1	3	.8%
	241			147			10		2	400	

EXHIBIT 6

TAXICAB INSPECTION STATISTICS

Year	No of Taxis	Pass	Fail	Hazardous	Defect Rate
1985	402	48%	45%	7%	4.15
1986	416	14%	85%	1%	2.88
1987	247	8%	91%	1%	3.64
1988	413	8%	91%	1%	2.99
1989	559	7%	91%	2%	4.37

Source: 1989 Vehicle Inspection Statistics
Traffic Safety & Loss Prevention Dept.
Manitoba Public Insurance Corporation

4. VEHICLE QUALITY

4.1 Current Vehicle Standards

Board staff inspect all taxicabs twice a year, once in the spring and once in the fall, and conduct mobile inspections randomly throughout the year.

The inspectors check the items listed in Exhibit 3 to ensure the vehicles are in suitable condition.

The inspection criteria are not set out in a regulation nor are there objective standards by which the inspections are performed and which determine how much time should be given to remedy the deficiency or whether an immediate suspension should be imposed.

There are no standards which prescribe the age of vehicles which may be operated as taxicabs, their value, or quality, other than the inspection list in Exhibit 3 and an informal regulation of minimum vehicle dimensions. Exhibit 4 sets out the current minimum vehicle dimensions allowed.

Exhibit 5 sets out the number of vehicles of each model year operated by licence holders as of the fall 1989 general inspection. Assuming vehicles were purchased by their original owners at the end of their model year, the average age of a vehicle at the time was 6.3 years; the median age was 6 years. 28% of the vehicles were 8 or more years old; 68% were 6 or more years old. These statistics are not significantly different than those compiled after the Spring 1988 meter check, a year and a half earlier.

The Board requires all taxis to undergo regular safety inspections conducted by the Manitoba Public Insurance Corporation. Exhibit 6 sets out the results of these inspections from 1985 to 1989. For 1989, the average defect rate per cab was 4.37, and 91% failed inspection. The Division of Driver and Vehicle Licencing advises that an average defect rate of no more than 2.5 would be a reasonable goal for taxicabs.

RECOMMENDATION 9

It is recommended that:

(a) the Board conduct an analysis of the defects found in inspections conducted by the Manitoba Public Insurance Corporation with a view to identifying common defects which could be added to the compliance inspections conducted by taxicab inspectors throughout the year; and

(b) the Board set out its inspection criteria in a regulation which insofar as is possible contains objective standards for both the suitability of the condition of the vehicle and the compliance action to be taken.

The Board has been presented with a significant amount of anecdotal evidence that there is a great deal of dissatisfaction with vehicle quality on the part of the business community and tourism interests. Businessmen have indicated they refuse to have their clients and executives transported by cab due to the condition of the vehicles and quality of service. Other arrangements are made whenever possible. As well, true or not, Board members and staff regularly hear complaints that Winnipeg taxis are the worst of any major city in Canada. Such complaints are discussed further in section 5.3.3.

Without doubt vehicles that are several years old when placed in service as taxis will look more worn and be less comfortable than newer vehicles. A requirement that operators place in service a new vehicle every three or four years would likely be met very favourably by those concerned about the problem.

4.2 Feasibility of New Vehicles

Taxi industry representatives argue that it is not economically feasible to place new vehicles in service as taxis, due to the great depreciation expense.

Concern has also been expressed that the individual owner operator can not afford to run the risk that the vehicle might be written off as a result of an accident. Once the vehicle has been in service for a few months as a taxi, it will have depreciated in value substantially, and thus the insurance proceeds will not be adequate to replace the vehicle.

Exhibit 7 adjusts the financial model in Exhibit 1 for the purchase every three years of a new vehicle with a capital cost of $24,000. Exhibit 7A adjusts the model in Exhibit 2 (which uses the gross revenue expected by licence purchasers as calculated in section 3.3), in the same manner.

Accountant and taxi owner K. Cherney in his submission suggests (p. 2):

> "Should the Taxicab Board insist on $18,000 new vehicles with an expected service life of 4 years an immediate increase in revenue in the area of 20% would be required with the assumption of no loss in customers."

Both of the models in Exhibit 7 and 7A indicate a somewhat lower revenue requirement for a more expensive vehicle than that suggested by Mr. Cherney, and the Board suggests Exhibit 7A better reflects the reality of the situation.

In any event, it is clear that a substantial fare increase, in the range of 13% to 17% and perhaps higher, would be required to finance the purchase of new vehicles of a capital cost in the range of $24,000, if the current financial position of the operators is to be maintained.

EXHIBIT 7

FINANCIAL MODEL

WINNIPEG TAXI OPERATION

Adjusted for the purchase of a new vehicle every three years

Meter revenue		60,950
Expenses		
Fuel	7,850	
Repairs and maintenance	5,350	
Employed drivers' wages	15,250	
Employed drivers' benefits	1,050	
Professional fees	200	
Dispatch fees	5,000	
Insurance	3,100	
Licences	200	
Depreciation	6,100	
Miscellaneous	250	
Owner inputs		
Driving time	16,300	
Management services	1,750	
Return on investment in vehicle and equipment (Return on $25,000 at 15%)	3,750	
Loss		(5,200)
Revenue increase required to offset loss		10,400
Fare increase required		17.1%

Assumptions:
----

1. Fuel costs, dispatch fees, and insurance are the same as for a regular taxi.

2. Meter revenue and driving costs are taken from Exhibit 1.

3. Repair and maintenance costs will be $3,000 in the first year, $4,800 in the second, and $7,200 in the third, for an average of $5,000 per year, plus $350 per year for car washes.

4. The vehicle costs $24,000 and has a residual value of $6,000 after three years; other equipment costs $1,000 and lasts 10 years. Total capital investment in vehicle and equipment is $25,000, and annual depreciation is $6,000 for the vehicle and $100 for other equipment.

5. About 50% of revenue goes to employed drivers and to the owner for time spent driving. Thus, the revenue shortfall must be doubled to cover the higher depreciation and other increased costs of operating a new vehicle of superior quality. Also worth noting is that drivers' remuneration will increase by the same amount as a fare increase.

EXHIBIT 7A

FINANCIAL MODEL

WINNIPEG TAXI OPERATION

Adjusted for the purchase of a new vehicle every three years

Meter revenue		77,450
Expenses		
Fuel	7,850	
Repairs and maintenance	5,350	
Employed drivers' wages	19,350	
Employed drivers' benefits	1,350	
Professional fees	200	
Dispatch fees	5,000	
Insurance	3,100	
Licences	200	
Depreciation	6,100	
Miscellaneous	250	
Owner inputs		
Driving time	20,700	
Management services	1,750	
Return on investment in vehicle and equipment (Return on $25,000 at 15%)	3,750	
Excess profit from Exhibit 2	7,700	
Change in financial position resulting from new vehicle requirement		(5,200)
Revenue increase required to maintain financial position		10,400
Fare increase required		13.4%

Assumptions:
----

1. Same as Exhibit 7, except that the figures for meter revenue, driving costs, and excess profit reflect the financial position of a licence holder as given in Exhibit 2.

(The Board has also calculated that a taxi service which uses luxury executive cars of a value in the $35,000 range would require a fare approximately 25% higher than the current fare to be feasible.)

4.3 Market Differentiation

Given the large percentage of taxi users who are poor, mobility impaired, and elderly, and otherwise not in a position to operate their own car, it may be that ridership on the part of such individuals would diminish significantly in consequence of a fare increase of the magnitude required for the use of new vehicles of superior quality. For many of such individuals, their mobility would be further impaired by their inability to afford as many rides.

The Board has heard little from this type of user that the vehicles currently in service are not adequate for their purposes. It would not seem fair to lessen their mobility to satisfy the desires of businessmen and tourists who are in a position to make alternate arrangements. As stated by the Manitoba Society of Seniors Inc. in its submission (p. 5):

> "MSOS has some concern, however, that a significant increase in cost to support an improved standard may have beneficial effects for one segment of the consuming public, i.e. tourists and business users, but at the same time have a detrimental effect on low income consumers and people living on fixed incomes. We would ask the Board to consider this very carefully when assessing the impact of new vehicle standards on potential fare increases."

The market for taxi services is heterogeneous. There is a clear dividing line between those members of the public who of necessity use taxis because they are not able to drive themselves, whether due to poverty or disability, and those for whom the taxi is a convenience. Price and service elasticity of demand are clearly substantially different for the two groups.

When taxi fares go up, the "users of necessity" are more adversely affected than the "users of convenience". When service quality goes down, the "users of convenience" find more suitable alternatives.

The "convenience" group generally values their own waiting time higher than would the "necessity" group. The "convenience" group could therefore be charged more in order to attract the capacity necessary to provide the lesser waiting time for which they are prepared to pay.

It would appear from the general views of Winnipeg businessmen that the current regulatory structure fails to allow the provision of service at a level that will attract their business, and that should service be offered at such a level, total demand for taxi services in the City would increase substantially. This is discussed in greater detail in section 5.3.3.

One of the alternatives proposed in the Board's "Alternatives" Discussion Paper was the creation of two separate classes of taxi service, at different fares. Prof. Grant, in his submission to the Board commented on this proposal as follows (p. 33):

> ". . . the most innovative proposal of the Board concerns the creation of a "two-tier" system of licencing through the introduction of a "luxury" industry. This proposal is an extremely insightful one for a variety of reasons. Most importantly, it reflects the segmented nature of demand in the industry between relatively high income business and other travelers, and low-income users. By permitting a dual fare structure, it could allow higher fares to those seeking a higher standard of service and lower fares for those low-income users seeking only a viable means of transportation. Moreover, this proposal would allow the expansion of the industry in an area which, it may be argued has yet to be fully exploited, without unduly impinging on the livelihood of suppliers in the other segment of the industry. The only qualification to the proposal is that it would probably be necessary to create a single company catering to the high-priced market, since it would otherwise not be possible for customers to indicate which service they wished to hire."

Mr. Cherney (p. 4) expressed the concern that this proposal "would be too confusing to the public and difficult dispatching for the Taxi companies". The Board is of the view this concern can be adequately addressed by requiring the use of a distinctive business name and telephone number, and clear identification on the taxi and any advertisement that the service was provided in superior vehicles at a higher fare.

It should be noted here that Exhibits 7 and 7A are based on a number of major assumptions that have not been proven, the most significant on the cost side being the reduction in repair and maintenance costs and the residual value of $6,000.

In part for this reason, the Board is not currently in a position to precisely determine the quality of vehicle that it might be best to prescribe or the amount of a fare increase that would be necessary to finance a new vehicle of superior quality.

However, the models in Exhibit 7 and 7A establish a reasonable starting point and framework for a consultative process. They can be readily adjusted to reflect input received.

The Board is also of the opinion that, if a superior vehicle class is established, competitive forces should be allowed to determine the number of vehicles in each class (subject to recommendation 12). The Board should not compel the industry to provide any particular number of vehicles that meet the standards of the superior class. The Board's role should be limited to ensuring the fare structure allows the superior service to be economically feasible in relation to the regular service.

The Board considered imposing a minimal vehicle age standard for the regular taxi class, whereby vehicles could not be placed in service as a taxi after the end of the 4th year after its model year and could not be in service as a taxi in any circumstances after the end of the 6th year after its model year.

Although in the opinion of the Board such a standard would likely improve the quality of vehicles in service in the regular class and would not cause a significant change in the financial position of the industry, it was rejected as it would result in the arbitrary rejection of older vehicles which may be in exceptional condition.

Further, the Board was of the view competitive forces from the introduction of superior class vehicles would be likely to have a substantial positive impact on the quality of vehicles in regular service, as will implementation of the Board's recommendations on improved inspections and compliance.

RECOMMENDATION 10

It is recommended that:

(a) the Board not impose superior vehicle standards on the industry generally, but rather establish a separate class of licence with superior vehicle and service standards, and a higher fare level, sufficient to finance compliance with the superior standards and achieve an adequate response time for the class;

(b) in order to ensure users are not confused by the differing services available and to allow feasible dispatch, the superior service be required to be dispatched under a business name that is distinctive from that under which regular service is provided, and through a different telephone line, and that any advertisement of the superior service must describe the service as such and the fact it is offered at a higher fare;

(c) users and interested members of the industry be consulted further, through the Taxicab Advisory Committee, in order to determine the precise quality of vehicle and service standards that would meet the needs of the users and the revenue requirements of the owners; and

(d) subject to recommendation 12, the Board not set a particular quota for each class of taxi, and a licence authorizing the operation of a vehicle of one class be freely convertible to a licence authorizing the operation of a vehicle of another class.

RECOMMENDATION 11

It is recommended that the Board not impose an age restriction on vehicles operated in the regular class, provided implementation of recommendations 9, 10 and 22 effectively improves the general condition of vehicles in service.

5. THE LICENCE QUOTA

5.1 Number of Licences in other Cities

The number of regular taxicab licences issued by the Board was set at 400 in 1947. It has not been changed since.

Exhibit 8 supplies data on the number of persons per licence in major Canadian cities.

Winnipeg has the greatest number of people per licence of those cities listed (over 50% more than the average), and likely the greatest number of any major city in the country.

On the question of the appropriateness of the current quota, Touche Ross concluded:

> "Based on data from other cities, and the apparent financial good health of existing taxicab licences, Winnipeg should be able to support more licences. The average number of licences per 1000 population for cities with regulated industries suggests an additional 224 licences."

However, many varying factors make each local market for taxi services unique. As the Board Chairman pointed out in the "Alternatives" discussion paper, section 8 of the Taxicab Act requires the Board to consider the "public convenience and necessity in respect of the number of licences required" in Winnipeg.

He went on to state:

> "Thus, it is not sufficient to merely consider the number of licences per 1000 population in determining whether the limit on the number of licences should be increased. A thorough review of the demand for taxi services, the adequacy of existing service, and the impact of more licences being issued on existing licence holders is necessary."

After considering the evidence then available, the Board declined to even propose an increase in the number of regular licences.

In his submission to the Board, Prof. Grant agreed with the Board's assessment of the Touche Ross report in the following terms (p. 4):

> "Since the report did not pay sufficient attention to the level of demand, the suggestion that supply might be increased by over 50 per cent without seriously impairing the financial stability of the industry is not a sound one."

EXHIBIT 8

COMPARATIVE DATA - SUPPLY OF TAXI SERVICES
MAJOR CANADIAN CITIES - 1986

City	Population	Licences	Population per Licence
Ottawa	304,000	586	519
Toronto	2,145,000	2,906	738
Mississauga	378,900	379	1,000
Hamilton	306,500	259	1,183
London	286,000	253	1,130
Windsor	195,000	200	975
Winnipeg	600,000	400	1,500
Regina	163,000	120	1,358
Edmonton	601,000	1,198	547
Vancouver	430,000	428	1,005
Calgary	640,645	1,402	457
Average	550,086	730	947

Source: City of Calgary, Commissioners' Report Re:
Control of Taxi Licences, from Tables C and D

5.2 Demand for Taxi Services

Many factors other than total population affect the demand for taxi services within a particular city.

5.2.1 The level of fares

The precise relationship between the level of fares and demand for taxi services is not known. It is generally assumed ridership diminishes with an increase in fares, although the a priori analysis of Mr. Grant in his submission indicates demand is relatively price inelastic: an increase in price will increase total revenue. This issue is discussed in detail in section 3.7 of this report.

With regard to the relationship between the level of fares and the question of the adequacy of the existing licence quota, it is important to be aware that a shortage of taxis can be masked by a high fare (Papillon, 1982). The high fare diminishes demand to a level that fewer cabs can adequately serve the members of the public able or willing to pay the higher fare. Thus, from the point of view of the operator, an increase in the licence quota would not be indicated. However, public welfare would be improved by both a reduction in the fare and an increase in the quota to accommodate the increase in demand.

Thus, it is would be useful to assess the current fare to determine its reasonableness.

Exhibit 9 sets out the fare in major Canadian cities for a 6 km ride with two minutes waiting time.

The data indicates the taxi fare in Winnipeg is only slightly higher than the average for major Canadian cities. This would appear to support the view that the current fare structure does not result in an abnormally lower level of demand for taxis in Winnipeg.

In theory, the appropriateness of the fare level may also be measured by the level of "excess" or "super-normal" returns in the industry, which in turn is indicated by the market price of a taxi licence.

However, in order to adequately determine the extent to which fares are higher than "normal" based on the level of super-normal returns, one must know the elasticity of demand. As we do not know the elasticity of demand with any degree of certainty, the Board is of the view no purpose would be served by engaging in the analysis.

Mr. Grant addressed this question in his submission in the following manner:

> "The fact that taxicab licences have recently been transferred for as much as $60,000, however, provides prima facie evidence that a more than adequate rate of return exists in the industry. While recognizing that

EXHIBIT 9

CANADIAN TAXI FARES

Vancouver	$ 7.80	Winnipeg	$ 7.20
Calgary	7.20	Toronto	7.75
Edmonton	7.26	Montreal	7.00
Regina	5.60	Halifax	7.02

Average fare: $ 7.10

> there is inadequate financial information to make a reliable determination of the actual rate of return in the industry, in the absence of an alternative explanation for the value of licences, it must be assumed that the value of a licence reflects the capitalized value of expected future "rents" (or abnormal profits) accruing in the industry. Such being the case, a small increase in the number of licences would appear to be warranted."

Mr. Grant's analysis does not address the impact on existing licence holders, who paid the capitalized value of the economic rents based on the existing fare structure and licence quota, and are therefore not themselves receiving these rents, except perhaps some capital recovery amount. This is discussed in detail below in section 5.4.

5.2.2 Urban transportation alternatives

5.2.2.1 The private automobile

Over 90% of urban transportation needs are served by the private automobile (Papillon, 1982). The primary alternative to the private automobile is the taxi. The level of demand for taxis therefore depends greatly on the level of use of the private automobile.

Since the current licence quota was set in 1947, the number of private passenger cars registered in Manitoba has increased five times, while the population of Winnipeg has only doubled. Thus, the number of private automobiles per capita has increased 250%.

Therefore, the length of time and the population growth since 1947 does not indicate an increase in the quota is warranted, as argued by some presenters at the hearings. On the contrary, if one only considered the growth in the number of private automobiles per capita, one would conclude that the demand for taxis has fallen substantially since it was determined 400 cabs were sufficient to serve Winnipeg, and that therefore a reduction in the quota is indicated.

There is no indication that Winnipeg has more private passenger vehicles per capita than other major Canadian centres.

As well as the number of private automobiles, the relative feasibility of their use affects the demand for taxi services. For example, the availability of parking in the central business district and at major public facilities such as airports, arenas, etc., and their proximity and accessibility to the private automobile will affect the means of travel chosen.

It would appear reasonable to conclude that the excellent availability of parking facilities in Winnipeg's core area and at shopping and other public facilities, and the proximity of the Winnipeg International Airport to all areas of the city, would result in a lower demand for taxi services than in most other major Canadian cities.

On the question of the contribution of airport traffic to the demand for taxi services, Prof. Grant commented (p. 11):

> "In most Canadian cities, transportation to and from the airport constitutes one of the most important sources of demand for the taxicab industry, and Winnipeg is probably no exception in this regard. This demand can be assumed to be relatively price inelastic, given the lack of alternative modes of transportation: public transit does not provide a very plausible alternative to business travelers with an emphasis on speed and comfort of service, and tourists carrying luggage would not find regular bus service adequate. Moreover, given that much of the traffic is by non-residents, private automobiles do not pose an important alternative. The demand for taxicab services can be expected to vary directly with the number of airplane landings, which in turn will vary according to the volume of economic activity in the city."

The Board disagrees with Prof. Grant that in Winnipeg there is a lack of alternative modes of transport for airport users. Given the fact that Winnipeg's airport is the closest in the country to the central business district of the city (and among the closest on the continent), the private automobile is a relatively much more feasible alternative to the taxi than in other cities.

This is borne out by the higher than average ratio of short term parking facilities at the airport. It appears many people in Winnipeg are picked up and delivered from and to the airport by private vehicles. As stated by Mr. Kapusta, Manager of Duffy's in his submission (p. 2):

> "They tell us one million people come through the airport in a year. The only thing is that these people do not take cabs as most of them are locals who have their families to pick them up. Others are picked up by hotel vans, limousines, company cars and business people use rental vehicles. Only ten percent will take taxis."

The proximity of the airport may indeed be one of the largest contributing factors to the apparent relatively lower level of demand for taxi services in Winnipeg.

5.2.2.2 Rental vehicles

The renting of a vehicle alone provides to the traveler the same advantages of flexibility of time and route of travel as the private automobile and the taxi. Automobile rental operations are thus clearly major competitors for taxi services.

Although no statistics have been developed by the Board, it is apparent that the number of establishments in the business of renting vehicles has increased substantially over the years, along with the number of vehicles rented.

This fact underscores the unsoundness of considering only population growth in determining whether the quota should be changed.

5.2.2.3 The mass transit system

The relative efficiency and availability of the mass transit system in a city will also substantially affect the level of demand for taxi services.

Prof. Grant in his submission compared the ratio of gross revenue of taxicabs to the own-source revenue of mass transit in major Canadian cities and found that Winnipeg is notable for the low ratio of taxicab to mass transit revenues. From this evidence alone he concluded the present level of demand for taxicab services in Winnipeg is low relative to other Canadian cities.

It is common knowledge that Winnipeg has an excellent transit system, heavily subsidized by government; over 47% of total costs are not covered by fares. Papillon (1982, p.33) has pointed out that despite the natural complementarity of taxi services and mass transit (in that their combined presence can reduce the reliance on the private automobile), subsidizing fares for mass transit reduces the demand for taxi services. He concluded (p. 87):

> "Mass transit subsidies also can prevent taxis from playing an optimal roie in urban transport. When these subsidies are used -- as most often appears to be the case -- to extend the transit network into markets where the combined individual and collective taxi is best suited to serve at the lowest cost, the role of the latter is restricted, and potential economies of density are not achieved."

Although Papillon recommends deregulation of the taxi industry, he suggests that licences be bought back with funds obtained from the cutback or elimination of mass transit subsidies.

Exhibit 10 provides empirical evidence of the negative effect of subsidization of mass transit on the number of taxicabs.

For the first four cities listed, there is a clear negative relationship between the degree of subsidization in the transit system and the number of taxi licences on a per capita basis.

The last three cities listed do not appear to fit this pattern, since they subsidize mass transit to an equal or greater degree but have higher per capita numbers of taxicabs. There is, however, evidence which suggests that these cities are atypical.

Ottawa requires a large number of taxicabs to service the additional demand arising from its function as the nation's political and administrative center. For the year in which the per capita numbers of taxis were calculated (1986), Edmonton and Calgary did not place limits on the number of taxicabs, whereas the first four cities listed in the table did regulate entry into the

EXHIBIT 10

City	Percentage of transit costs not recovered from fares (1988)	Taxicab licences per 1000 population (1986)
Toronto	29.1	1.4
Vancouver	41.5	1.0
Hamilton	41.9	0.8
Winnipeg	47.2	0.7
Ottawa	41.6	1.9
Edmonton	52.4	1.8
Calgary	59.6	2.2

industry. As shown in Papillon's study, cities which do not control entry have proportionately higher numbers of taxis.

5.2.2.4 Unregulated vans

Due to a misinterpretation of the law on the part of both the industry and the Board, dating back over 30 years, the Board has never exercised its jurisdiction to regulate vehicles with a seating capacity of 12 or more persons. These vehicles were historically classified as buses, subject only to licensing by the City.

The Board was informed at the public hearings that the number of passenger vans operated for the transportation of passengers for compensation has recently increased substantially. Although the precise number of operators is not known, they have cut significantly into the market of regulated cabs.

There is no rationale apparent to the Board for exempting passenger vans from the requirement to hold a taxicab licence.

Without a taxi licence, passenger vans compete unfairly with regular taxis, as their registration and insurance fees are substantially lower. They are not subject to Board regulations, including the requirement for twice yearly safety inspections.

The failure to regulate passenger vans poses a substantial threat to the effectiveness of entry regulation to ensure industry stability. The growth of passenger van operations in reality constitutes a significant increase in the quota of taxicabs in the City which has not been generally recognized.

Due to the urgency of this matter, the Board has already implemented the regulation of passenger vans, and received government approval of its resource requirements in this regard. Public notices and a regulation have been issued by the Board.

5.2.3 Numbers of people unable to drive themselves

Although the taxi was originally a luxury service, such is no longer the case.

Papillon (1982, p. 30) notes:

> "A large part of the taxi clientele therefore does not own an automobile. This is confirmed by many studies, which reveal that a large part of the taxi clientele belongs to the various categories of people who are physically or financially unable to drive themselves, such as the unemployed, residents of poor neighborhoods, the elderly, the disabled, housewives, and students.
>
> "In Winnipeg, the elderly and disabled represent one-third of the taxi industry's clientele (I.B.I. Group, 1975). Another survey conducted in small and medium sized U.S. cities reveals that households with an

> annual income below $5,000 (in 1972 dollars) consumed more than half of all taxi trips, although they accounted for less than one-fourth of the population (Gilbert et al., 1976). The dependence of low-income households on taxis also occurs in large cities, according to a study conducted in Brooklyn, New York (Central Brooklyn Model Cities Area)."

Thus, the greater the number of people in a community who are for whatever reason unable to drive themselves, the greater the demand for taxi services.

There is no indication that Winnipeg has an unusually small or large number of people in this category. However, the importance of this market segment must be kept in mind when considering any proposal that would have the effect of increasing the cost of taxi service.

5.2.4 Climate

Weather conditions affect the public's selection of means of travel. On extremely cold or stormy days, the demand for taxi service increases dramatically.

Winnipeg's climate is characterized by extremes of conditions. In recognition of the effect of the cold and snow of winter, the Board issues an average of 56 seasonal licences each year to the two major dispatch companies.

Although one might expect Winnipeg's harsh climate to contribute more to the level of demand than the climate in other cities, it should be noted that the seasonal licences increase the capacity of the industry by 12.5%, and thus the contribution of the climate to the level of demand is likely largely accounted for. For the balance of the year, with the relative lack of precipitation, it may be arguable that the climate is actually more conducive to alternatives to the taxi than in other cities.

5.2.5 Economic activity

An increase in economic activity leads to an increase in the demand for taxi services (Papillon, 1982, p. 32).

Winnipeg has maintained a relatively stable but marginal rate of economic growth over the past few decades, particularly in comparison to such cities as Calgary and Toronto.

It may be reasonable to conclude that both the current level of economic activity in Winnipeg and the level of economic growth over the years have contributed less to the level of demand for taxi services than in some other Canadian cities.

Certainly there has been no major economic boom that on its own would support an increase in the licence quota.

5.2.6 Tourism

Tourists, particularly those who are not traveling by means of their personal automobile, comprise a significant component of taxi clientele.

Unfortunately, it must be acknowledged that Winnipeg is not a major tourist centre. As well, as Mr. Kapusta points out in his submission (page 2), "Most of our tourists are Americans who travel to our city in their own vehicles".

These should be recognized as factors which contribute to the relatively lower demand for taxi services in the City in relation to others.

5.3 The Adequacy of Existing Service

5.3.1 Capacity

One might argue that if there was unmet demand for the service currently provided by the Winnipeg taxi market, vehicles would be operating at capacity. Evidence filed with the Board indicates that operators receive an average of 2 fares per hour, whereas capacity is stated to be 4 fares per hour. Thus, it appears there is some excess capacity in the industry currently.

However, some level of "excess" capacity is essential in the taxi industry in order to allow for an adequate response time during peak demand periods. Although the average number of fares per hour may be one half of capacity, evidence of the extent of fluctuation in demand in the submission of Prof. Grant (Figure 1) indicates that demand during peak times is near full capacity.

5.3.2 Seasonal licences

The number of seasonal licences issued has been used by the Board in the past as a measure of unmet demand. The Board is of the view that the fact an average of 56 seasonal licences are issued each winter does not indicate an inadequacy in the number of regular licences, given the extent of seasonal demand fluctuations.

5.3.3 Complaints

Service adequacy can also be measured by the level of complaints.

The level of complaints received by the Board regarding service is very small in relation to the number of rides provided.

However, it is possible many people are reluctant to make a complaint, and the current level of complaints gives no indication of the number of people who may have simply stopped using the taxi because of what they perceived as poor service.

A poor service level reduces demand just as a fare increase does. Just as a high fare level can mask a shortage of taxis, so can low service quality; poor service diminishes demand to a level that fewer cabs can serve the members of the public who are willing to pay for the service or have no alternative.

Businessmen and business organizations consistently complain about the cleanliness and quality of vehicles in service.

The following presenters' comments are typical of the opinion of the business community in Winnipeg:

> "For years I have chosen not to ride in cabs because of the general unclean condition of the interiors. Years ago when Moore's, Yellow and Grosvenor were operating, they bought new cars every few years resulting in cleaner interiors.
>
> If the industry were to renew its fleet on a regular basis and keep its interiors clean, I am sure the demand for cabs would dramatically increase. Many people, including myself, would make greater use of the system and ultimately, everyone would benefit. The cab owners would be making greater profits and the drivers would make higher wages because the customers would be more satisfied with the cab service."

> "Having used taxis in many cities across Canada, I would have to rate ours amongst the worst that I have ridden in. If a poll were taken of frequent users of cab service here and elsewhere, I am sure my sentiments would be voiced by others.
>
> . . . I have been transported in some cabs in this City that have required my clothes to be dry cleaned upon arrival at destination . . .
>
> . . . another alternative is to offer a preferred service to those who may be prepared to pay extra to arrive at the Airport on time in a vehicle that meets the requirements of the business traveler. This is not a luxury - it is a necessity, and one that does not exist in our City at the present time."

From this type of complaint, it appears there is a good probability demand for taxi services will increase substantially upon implementation of recommendation 10 for a superior class of vehicle at a higher fare. There are reasonable grounds to believe a large number of potential cab riders exists for whom price is less important than service and for whom existing service levels are completely unacceptable, who have for this reason determined to use available alternatives. Should service levels improve, this group may return to the use of taxis.

As stated by Beesley and Glaister (1983, page 611):

> "Response of demand to changing service quality must therefore have at least as much to do with particular individuals being on the margin of being willing to pay

> for better service under particular circumstances, as with a set of identical individuals making the same marginal change in the same number of trips."

Although this statement was made in respect of service quality improvements due to reductions in waiting time, it is submitted to be equally relevant to other service quality improvements. Just as there is no uniformity of time values, there is no uniformity of the valuation of (willingness to pay for) superior vehicles.

The view that demand would increase substantially in response to service quality improvements is supported by a market survey performed by Blue Ribbon Transportation in 1987 and submitted to the Board at the hearings, which found that of 100 taxi users interviewed, 60% stated they were unsatisfied with taxi service and 40% stated they would take more taxis if the service was improved.

It is impossible to estimate with precision the increase in demand that would result from the establishment of the superior class of licence. However, to fail to provide for the likelihood could result in a shortage of cabs and thereby a reduction in service quality due to an increase in waiting time. The effectiveness of the measure could be diminished or destroyed by its own success, without some ability to anticipate and quickly adjust to the increased demand.

As well, the general attitude of current industry members may result in failure of the measure without a proper trial. If the industry is merely given the option of placing in service vehicles of the superior class without any incentive beyond a higher fare, it simply may not happen. Competitive pressure may be necessary.

For these reasons, the public convenience and necessity requires incremental quota increases in conjunction with implementation of recommendation 10 for the creation of a superior class of taxi at a higher fare.

Although there is substantial evidence that demand for taxi services in Winnipeg is lower than other major Canadian centres, it is doubtful that the demand that would exist if the market were adequately serviced would be so substantially lower as to justify a licence quota that results in 50% more people per taxi than the average for Canadian cities that restrict entry.

In the opinion of the Board, if all segments of the Winnipeg taxicab market were adequately serviced, the demand would likely support an additional 60-100 licences. If the quota of all classes of licences were set at 500, Winnipeg would have slightly fewer people per taxi than Regina, but slightly more than London and Hamilton.

RECOMMENDATION 12

It is recommended that:

(a) the limit on the number of taxi licences be immediately increased by 20;

(b) the new licences be conditional upon the placing and maintaining in service of a vehicle that meets the superior standards established under recommendation 10;

(c) the licences be issued in blocks of five licences to the highest bidder in a tendering process not restricted to existing licence holders; and

(d) the process of increasing the quota in 20 licence increments be repeated every six months until up to 100 new licences are issued, provided the effect of the previous increase is not found to be adverse and it is apparent demand for taxi services did in fact increase due to the superior class of service.

5.3.4 Response time

A good measure of the adequacy of existing services is response time. If too few taxis were serving the city for the prevailing level of demand, the time taken to respond to a call would be unreasonably long.

The Board has conducted an analysis of the response time of Unicity Taxi. The average response time was 8.68 minutes for the sample of trips analyzed. In 80% of the trips, the cab arrived from 4 to 13 minutes from the time the call was placed. In less than 3% of trips, the cab took more than twenty minutes to pick up the passenger.

If any problem was disclosed by the analysis, it was that dispatch time could perhaps be more consistent. Dispatchers contributed to more than half of the total response time for 56% of the calls in the sample.

In the opinion of the Board, the response time of Unicity Taxi is more than adequate. The Board has no reason to doubt that of Duffy's is also adequate. Evidence before the Board from the industry was that the North American average response time is 15 minutes. It is apparent from the Board's analysis that Winnipeg taxis are usually waiting for a fare when dispatched, and go directly to pick up the fare.

On the other hand, response time is also a function of the demand for taxi services. It is possible that the demand for service has been depressed substantially by the level of service, allowing the existing quota of operators to respond in a reasonable period of time to a relatively diminished number of calls.

5.4 Impact on Existing Licence Holders

Without a corresponding increase in revenue due to an increase in demand or a fare increase, any additional licences would have an adverse effect on existing licence holders. Revenue earned per cab would diminish in relation to the number of extra licences.

Exhibit 11 sets out a calculation of the effect of an increase in the number of licences from 400 to 500 on the value of a licence.

Exhibit 11 indicates that the value of a licence is very sensitive to changes in the quota. A 25% increase in the quota could be expected to reduce the value of a licence by about 56%, if demand did not increase with the quota increase.

The Chamber of Commerce proposed in their submission that the number of licences be increased to 600, a 50% increase. It was suggested that the Government buy all 400 existing licences at fair market value and then sell 600 for the same total price. Magically, we would have 200 additional cabs without significant adverse financial impact. However, the proposal did not consider the total value of 600 licences; that is, whether anyone would be prepared to pay anything for one of 600 licences. Exhibit 12 models the impact of a licence quota increase of 200 on the value of an existing licence.

Exhibit 12 demonstrates that a rational purchaser would not be prepared to pay more than about $2,650 for a licence if the quota of licences was 600. 400 licences are worth a total of $18 million. 600 licences might be worth only about $1.6 million, not $18 million, the premise of the Chamber of Commerce proposal.

Exhibits 11 and 12 may even understate the effect on the price of a licence of significant increases in the quota. Income from driving would diminish in relation to the increase in the quota, in addition to a reduction in the return to the owners. The attractiveness of driving a cab would diminish relative to other employment, as the earning potential would be reduced relative to alternative employment. As a result, the level of demand for a licence for those looking to "buy a job" would diminish, putting downward pressure on the price of a licence. As well, a driver shortage could be expected, putting upward pressure on labour costs, and further downward pressure on profitability and the price of a licence.

In other words, in order to attract drivers and owners to the industry, the "wage" would have to rise in order to compensate for the fewer number of fares for each driver. With a fixed fare, this would occur through a reduction in the "economic rents" or "excess profits" or "greater than normal returns" of a cab operation, and hence a reduction in the price of a licence, the capitalized value of those returns.

Further, variable costs may not in fact be reduced in the same proportion as the reduction in revenue, due to the owner-operator wishing to be on the road as much as possible to maximize his income.

EXHIBIT 11

Revenue of cab operation	$ 77,450
Less economic rent	7,700
Total costs of operation (including a normal return)	69,750
Revenue after quota increase (77,450 X .8)	61,950
Total costs after quota increase (69,750 X .84)	58,600
Economic rent after quota increase	3,350
Value of licence after quota increase (Present value of $3,350 per year for 15 years at 15%)	19,600
Reduction in wealth of licence holder due to quota increase (45,000 - 19,600)	25,400

Assumptions:

1. The initial figures for revenue, economic rent, costs, and the value of a licence are taken from Exhibit 2.
2. A 25% increase in the quota of licences decreases the revenue of each taxicab by 20%.
3. Variable costs are 80% of total costs (from Exhibit 2); thus, when revenue is reduced by 20%, costs are only reduced by 16%.
4. Figures are rounded to the nearest $50.

EXHIBIT 12

Revenue after quota increase (77,450 X .667)	51,650
Total costs after quota increase (69,750 X .734)	51,200
Economic rent after quota increase	450
Value of licence after quota increase (Present value of $450 per year for 15 years at 15%)	2,650
Reduction in wealth of licence holder due to quota increase (45,000 - 2,650)	42,350

Assumptions:

1. All assumptions are the same as in Exhibit 11, except that a 50% increase in the licence quota is assumed to reduce the revenue of each cab by 33.3%, and a 33.3% reduction in revenue would decrease costs by 26.6%.

Quantification of the effect of a quota increase on the price of a licence allows one a better understanding of why the owners are so concerned about any increase in the number of licences, let alone an extra 224 as suggested by Touche Ross. Anyone who is working 60 to 80 or more hours a week for what may be not much more than minimum wage in order to pay for the purchase of a $50,000 asset should be expected to fight very hard indeed to protect that asset from being eliminated by government action. Indeed, it is interesting to note a licence quota increase of 220 would entirely wipe out the licence value (using the same method of calculation as in Exhibit 12).

Although the risk of regulatory change should have been a factor in the determination by purchasers of the value of a licence, it is apparent it has not been considered, likely due to the length of time since any change in the licence quota.

As well, although it may be that the operators have paid the licence price in the expectation that the "excess earnings" will pay for it over some period of time, the fact remains that by subsequent government action, their net worth could be reduced substantially overnight. And for many operators who purchased their licences at high prices and have not held them long enough to recover more than a small portion of their investment, the financial loss would impose substantial hardship.

Further, the Board has always condoned the free transfer of licences at market value.

The Board is of the opinion that a change in policy on the part of the Board or the Government that substantially adversely affects the value of a taxi business should not occur without some level of compensation to licence holders.

As recommended by the Licencing Committee of the Regional Municipality of Ottawa Carleton in its 1989 report (Vol. 1, p. 3):

> "- notwithstanding the public municipal privilege character of a taxi plate, a system of compensation for existing plate holders should be established to avoid dislocation in the taxi industry, to protect the investment of the individual plate holder and to remove a capital cost or debt on the performance of a taxi service;"

Even the Economic Council of Canada, in its major report Reforming Regulation (1981), after finding little merit in the case for entry restrictions, asserted:

> "This does not necessarily mean, however, that it would be desirable to eliminate all entry restrictions. Many small businessmen would incur a substantial capital loss as a result of such a move, and it is not at all clear that these distributive effects could be justified by the efficiency gains realized through free entry."

RECOMMENDATION 13

It is recommended that a change in the licence quota which substantially adversely affects the value of a taxi business not be instituted without reasonable compensation to existing licence holders, unless there is a sound basis to believe that demand has recently increased or will increase sufficiently in conjunction with the quota increase, such that the reduction in value is likely to be temporary.

5.5 Conclusion

Findings pertaining to the reasonableness of Winnipeg taxi fares, the lower level of demand for taxi services in Winnipeg than in other cities, the adequacy of existing services, and the adverse effect of a quota expansion on existing licence holders, indicate no substantial increase in the quota of regular taxi licences is required by the public convenience and necessity, other than the incremental increases proposed in recommendation 12 to meet the anticipated increase in demand due to the implementation of recommendation 10 for a superior class of service at a higher fare.

5.6 Quota Adjustment Based on Licence Values

Based on the fact that licences had recently been transferred for as much as $60,000 (including a vehicle), Mr. Grant in his submission suggested a small increase in the number of licences would appear to be warranted.

As noted above, however, for many members of the industry, there are no "excess profits" (beyond some contribution to recovery of the capital invested in the licence), as they have paid the capitalized value of such profits to the vendor of the licence. To significantly increase the quota would likely have a substantial adverse effect on the profitability of any operator who paid anywhere near the market price of a licence, currently in the range of $50,000.

However, licence price changes do indicate that either economic circumstances in the industry have changed or the demand for licences has changed due to factors external to the industry, such as an increase in the unemployment rate or a significant change in prevailing interest rates.

Assuming there is no evidence to the contrary, it is reasonable to conclude that an increase in the price of a licence is due to an increase in the profitability of a taxicab operation, in turn as a result of an increase in the demand for taxicab services.

Thus, an increase in the price of a licence would serve as an excellent proxy measure for an increase in the demand for taxicab service, and accordingly as a measure of the need for an increase in the quota.

To increase the price of a licence by $1,000, excess earnings would have to increase by $171 per annum. This amount is consistent with an increase in the number of trips of .8% if revenue is as set out in Exhibit 2, and 1.3% if revenue is as in Exhibit 1. A .8% increase in the quota of 400 licences is 3 additional licences, a 1.3% increase is 5 licences. Therefore, for every $1,000 the licence value increases, an increase in the quota of 3 to 5 licences is indicated.

Should the Board adopt a policy of using increases in the value of a licence as a proxy measure for the need for an increase in the quota, it would not have a significant adverse effect on the industry. The additional licences would likely be very few in number, and only the few operators who purchased licences in the past year would be at risk of their profitability being adversely affected, and this risk can be taken into account in the purchase price paid.

The adoption of such a policy would have the effect of eliminating speculation in licences. Any substantial change in licence prices over a short time would result in a substantial adjustment to the quota. The likelihood of significant profit to the speculator would be eliminated. Licence prices would stabilize at or very near current levels.

Should the policy not account for increases in the value of licences due merely to inflation, it will result in an incremental reduction in the real value of licences over time. However, the Board is of the view it is desirable to achieve such a reduction. The Board concurs with the recommendation of the Economic Council of Canada (1981) that:

> ". . . municipalities gear their system of price and entry controls towards a very gradual reduction in the market value of taxicab licences.
>
> This proposal could be implemented by way of a regulatory strategy leading to a very small, almost insignificant, annual decline in the value of taxicab licences. What is important is that the municipal authorities make use of information on the market value of taxicab licences to bring about a less restrictive regulatory system."

Further, in purchasing a licence, the owner will have taken into account the effect of inflation when he or she capitalizes the stream of expected excess income from the business, in the use of an appropriate discount rate. To put it another way, the owner has essentially received the inflationary increase for a particular year in the form of excess earnings that year. Therefore, it would not be unfair to deny the owner inflationary increases in the licence value. The effect is to simply reduce the amount of the "unearned" capital gain upon disposition of the licence.

The adoption of such a policy might provide an incentive for the industry to inaccurately disclose licence transfer prices. However, as sellers would have nothing to gain personally, and the impact on a purchaser would be incremental, the Board is of the view deceit would be minimal; certainly it would be much less likely to occur than if the Board directly regulated the price at which it would approve a transfer. If the Board ignored extremely low valuations, the deceit would have to amount to an industry wide conspiracy, which we think unlikely.

The Board is of the opinion that any additional licences should be sold to the highest bidder, and the proceeds be used for the benefit of or be given to existing licence holders in order to lessen any potential adverse effect of the quota change even further. Further, the tendering process should be restricted to existing licence holders to further minimize the adverse effect and to promote the establishment of small fleet operators.

RECOMMENDATION 14

It is recommended that:

(a) the Board review annually the public convenience and necessity in respect of the number of licences required in the City of Winnipeg;

(b) the Board adopt a policy that the public convenience and necessity requires the issuance of 3 to 5 additional licences for every $1,000 the average price of a licence for the year immediately preceding the review exceeds the average price for the year 1989, in the absence of evidence to the contrary presented by an interested person during the course of the review; and

(c) the additional licences be issued to the highest bidder in a tendering process restricted to existing licence holders.

RECOMMENDATION 15

It is recommended that:

(a) the proceeds of the sale of licences by the Board in accordance with recommendations 12 and 14 be paid in trust to a foundation directed by industry representatives, for the purpose of establishing and administering such programs in support of the industry as the foundation considers appropriate; or alternatively,

(b) if the foundation is not established within a reasonable time, the proceeds be divided equally among all existing licence holders;

in order to compensate existing licence holders for the potential loss in value of their licences due to the quota increases.

6. SERVICE TO THE HANDICAPPED

6.1 Existing Services and Regulatory Structure

6.1.1 Services by the regular industry

The regular taxicab industry currently transports many mobility disadvantaged people. Elderly and physically disabled passengers make up a large percentage of taxi riders.

A study prepared on behalf of the Ontario Ministry of Transportation entitled Transportation for Disabled Persons in Ontario: Toward a Strategy for the 1990's (Hickling, 1988), found 8% of total trips of disabled persons were made by taxi, whereas the general public uses taxis for only 1% of trips.

The Ontario study also found about 14% of Ontarians are disabled, whereas only .52% are unable to board public transportation, and .29% are wheelchair users.

There is no major issue in respect of the current services provided by the regular industry to those who are able to board the taxi with reasonable assistance. However, one should acknowledge the substantial contribution the industry currently makes to the mobility of the disabled while considering the issues discussed in this section. The issues pertain in fact to a relatively small proportion of the mobility disadvantaged.

6.1.2 City of Winnipeg Handi-Transit

City of Winnipeg Handi-Transit provides service to those for whom the regular transit service is not accessible by reason of disability, at regular transit fares.

The Handi-Transit service is provided to disabled persons who are registered as being eligible. To register, a person must have a doctor certify that he or she is physically disabled and requires the use of the service. Once registered, a person must make arrangements in advance for each individual trip. A trip must be booked 48 hours in advance and confirmed 24 hours in advance. Passengers are asked to make cancellations at least 30 minutes in advance. This is the amount of time required to prevent a wasted trip. There are no penalties for cancellations, even if they are made less than 30 minutes in advance. If an individual fails to cancel and does not show up at the arranged pick-up location, a warning notice is given. Repeated "no-shows" may result in an individual being removed from the registered list of eligible passengers. The fare for the Handi-Transit service is the same as for the regular transit service, $1.00 in cash or a 90 cent ticket.

The service is delivered through two means; directly by Winnipeg Transit using a fleet of specially designed buses, or through a brokerage contract with Unicity Taxi involving the use of ordinary taxicabs. The buses cost about $44 to $45 per hour to operate, and achieve an average productivity of about 2 passengers per hour, resulting in a cost of $20 to $21 per passenger trip.

The Unicity contract specifies two ways in which Handi-Transit can arrange for taxicab service; a taxicab can be rented for $12.54 per hour, or individual trips can be arranged at a flat rate of $8.36 per passenger. With the hourly rate, productivity averages about 2 passengers per hour, or about $6.27 per passenger. Taking both arrangements into account, the average cost of the brokerage contract is about $7.50 per passenger trip, which is about 1/3 of the cost of using a Handi-Transit bus.

The higher costs of the bus service are not due to productivity differences, since both buses and taxicabs hired at the hourly rate average about 2 passengers per hour. The difference can be attributed to the higher capital and operating costs of a bus compared to an automobile, the higher wages paid to Handi-Transit bus drivers, and to the fact that the bus costs include a figure of $4 to $6 per hour for the Handi-Transit service overhead and a portion of the overhead for the entire Transit system. Nevertheless, it is clear that for those handicapped individuals who are able to use a taxi, the cost to the program is much lower than the cost for those who must use a Handi-Transit bus.

6.1.3 Regulated Commercial Wheelchair Handivans

For many years, vehicles equipped with wheelchair ramps and used for the transportation of handicapped persons were exempt from the definition of "taxicab", by section 15 of the Taxicab Regulation (Revised Regulation T10-R1).

Effective April 30, 1986, by Regulation 97/86 and Regulation 98/86, the Board repealed this exemption and established commercial wheelchair handivans as a type of taxicab. Fare and entry regulation were implemented, and special equipment requirements instituted.

The regulation of handivans proved difficult and controversial. As a result of the problems, discussed in more detail below, in June, 1988 the Board determined the handivan industry should be deregulated.

Immediately upon this decision being taken, the Board was taken to Court by the Manitoba League of the Physically Handicapped. The League won an interim stay of the effect of the Board's order reinstituting the exemption (Manitoba Regulation 233/88, filed June 22, 1988). The effect of the Court order was that the regulation of handivans continued without interruption.

Changes occurred to the membership of the Board, and the new Board determined the question as to whether to maintain handivan regulation should not be determined by the Courts. The Board undertook to continue handivan regulation and study further the question of its appropriateness. The Board's decision was reflected in Regulation 395/88, filed October 4, 1988. As a result of this action, the Court proceedings were discontinued.

The Board has established a metered fare structure for handivans. The prescribed fare is $9.00 for the first 100 meters and $ .10 for each additional 100 meters. This compares to a fare for regular taxis of $1.90 for the first 125 meters and $ .10 for each additional 125 meters. The difference would result in a typical trip costing a wheelchair-bound passenger about twice as much as a person able to use a regular taxi.

Almost all trips are paid for by government or private social service agencies; only one trip per month per user can be classified as "non-essential". Each vehicle performs only about 8 trips a day (Merrett, 1987).

The Board has also established and maintained a quota of handivan licences. That quota is currently 61. About one half of the handivans are equipped with meters; the balance operate exclusively under contract. Only 25% of trips are metered trips.

The financial condition of the industry is not considered strong by the Board. The fact that licences apparently have no significant value at this time supports this view.

6.2 Appropriateness of Handivan Regulation

The Board invited submissions on the question of the appropriateness of continuing handivan regulation at the public hearings held in January, 1989.

6.2.1 Legal obligations

It was argued at the hearings on behalf of the Manitoba League of the Physically Handicapped that the Board was obliged under the Manitoba Human Rights Code and the Charter of Rights to continue regulation of handivans.

The Board is of the view this issue is not essentially a legal one. The Board is prepared to assume that it is obliged under the Human Rights Code not to discriminate by exempting services restricted to wheelchair passengers, unless there is bona fide and reasonable cause for the discrimination, and under the Charter of Rights to provide wheelchair passengers equal benefit of taxicab regulation.

However, in either case the essential question is whether regulation is beneficial to wheelchair passengers. If regulation is beneficial, the industry must be regulated. If it is not, bona fide and reasonable cause exists under the Code for exemption; it is not a "benefit" under the law within the meaning of the Charter; and therefore the industry should be exempt from regulation.

6.2.2 Costs and benefits of entry and fare regulation

There is no definitive answer on the question of whether the economic regulation of any transportation industry is of net benefit to the public.

The primary rationale for regulation of the taxi industry is founded in the concept of destructive competition. The low costs of entering the industry in combination with limited employment alternatives, is said to cause excessive price competition, considerable turnover of operators, and generally unstable market conditions.

Further, it has been argued effective price competition is not possible in the taxi industry, due to the lack of knowledge of the time it will take for the next cab to arrive and the price of its service in the cruising market, and to the concentration of the industry necessary for efficient dispatch in the telephone order market.

How applicable are these concepts to wheelchair passenger transportation?

Although there is relative ease of entry to this market segment, it is likely not as easy to enter as the regular industry would be without entry regulation. The investment in a vehicle is typically somewhat greater. The labour supply may be less inelastic as to wages during times of high unemployment than the regular industry, due to the additional training and demands of the specialized service. The market is limited, trained staff and personalized service are more significant, and a large proportion of revenue is earned from contracts with social service agencies. Thus, the reputation of existing operators forms a significant barrier to entry.

There is no cruising market. Efficiencies in dispatch for the telephone order market may be less likely to result in concentration due to the importance of contract services.

On the other hand, legitimate concern exists that the greater efficiency of larger dispatch services would tend the industry toward a level of concentration in the telephone order segment which may result in abuse of market power.

While the industry may have a tendency to concentration, there is no reason to believe a handivan market with a few service providers is not contestable should abuse of market power occur. The relative ease of entry should ensure contestability; the real threat of new entry should protect against non-competitive pricing and service levels.

A comparison of the state of the industry prior to regulation and subsequently is the best indication of the value of regulation.

Although there was a dominant firm prior to regulation, there was a number of smaller firms that gave some assurance competition would ensure the dominant firm would not abuse its market position. The level of fares reflected the cost of service; there is no evidence of super-normal returns or oligopoly pricing. The industry operated under relatively healthy, competitive conditions.

It is apparent that regulation was instituted not for the purpose of remedying a problem inherent in that industry, but rather for the purpose of imposing upon the industry a reduced price for its services, to further the interests of the handicapped in obtaining greater access to transportation. While greater access to transportation for the handicapped is a laudable goal, the means chosen to achieve it were based upon one or more of the following assumptions:

(a) demand elasticity for the service was such that the reduced fare would not result in reduced viability due to increased ridership;

(b) pricing at the time was not competitive and regulation would achieve a better result; and

(c) it was fair to impose upon the service provider the social obligation to subsidize services to the handicapped.

Subsequent events demonstrated all of these assumptions were unsound.

After regulation, and the imposition of a substantially reduced fare, the industry entered a period of serious financial difficulty. Ridership did not increase as predicted. A firm exited the industry due to low returns. Service was only maintained due to the dedication of the service providers.

As a result, the Board determined its regulation was not of benefit to the public, and determined to deregulate the industry. This decision was ultimately not implemented, as discussed above. Instead, the fares were increased to the pre-regulation level. The industry has since gained a degree of stability.

There are significant costs of regulation, particularly poorly administered regulation. Given the past record of all governments with respect to the provision of resources to the Taxicab Board, there is substantial doubt that sufficient resources would ever be committed to the Board to effectively establish fares based on sound financial information.

Given the record of the Board in respect of the regular industry, there is a substantial risk of the Board becoming to a large extent "captive" to the regulated handivan industry, such that with the elimination of the threat of new entry by the maintenance of a quota, the fares and standards the Board enforces would actually be worse than what would occur in a freely competitive market.

Further, when entry is restricted and licences are transferable, as are handivan licences, they develop a market value that substantially impairs the ability of the regulator to make necessary adjustments to the system in the public interest. Licence prices have to be effectively monitored, and adjustments to the quota or the fare structure must be made to keep handivan licences from having a significant value in themselves.

The question of whether or not to regulate services restricted to wheelchair passengers is ultimately a political issue. Regardless of whether or not users of the service will benefit from regulation, the Government has to deal with the perception that they will. As well, the issue is not without substantial doubt one way or the other, and it should be up to elected representatives to determine whether this doubt means it is more appropriate to regulate the industry or to deregulate it.

RECOMMENDATION 16

It is recommended that:

(a) the Government consider the political costs of deregulation of wheelchair handivans in light of the perception of its benefit in the minds of the public and the advice of the Board that in fact there is little evidence that regulation is beneficial, and determine the appropriate course of action;

(b) the Government defer a decision on this question until the establishment of the quota of wheelchair accessible taxis pursuant to recommendation 18; and

(c) if the government determines economic regulation of the handivan industry should continue, the Board be provided with sufficient resources to ensure its regulation is effective, particularly in respect of economic analysis, and the Board take measures based on such analysis to ensure licences do not develop a market value.

6.3 Accessibility of the Regular Industry

6.3.1 Obligations of the industry

As discussed above, the regular taxicab industry provides extensive service to mobility disadvantaged persons, including those able to transfer from a wheelchair to the seat of the cab. However, this service is not extended to those disabled persons confined to their wheelchairs.

The Manitoba League of the Physically Handicapped and the Canadian Paraplegic Association appeared at the public hearings and argued that the industry is obliged under the Human Rights Code (C.C.S.M. c. H175) to provide wheelchair accessible vehicles.

The relevant provisions of the Code are as follows.

> "Discrimination" defined.
> 9(1) In this Code, "discrimination" means
> . . .
>
> (b) differential treatment of an individual or group on the basis of any characteristic referred to in subsection (2);
> . . .
>
> (d) failure to make reasonable accommodation for the special needs of any individual or group, if those special needs are based upon any characteristic referred to in subsection (2);
> . . . .

> Applicable characteristics
> 9(2) The applicable characteristics for the purposes of clauses (1)(b) to (d) are
>
> . . .
>
> (l) physical or mental disability or related characteristics or circumstances, including reliance on a dog guide or other animal assistant, a wheelchair, or any other remedial appliance or device.
>
> Reasonable accommodation required.
> 12 For the purpose of interpreting and applying sections 13 to 18, the right to discriminate where bona fide and reasonable cause exists for the discrimination, or where the discrimination is based upon bona fide and reasonable requirements or qualifications, does not extend to the failure to make reasonable accommodation within the meaning of clause 9(1)(d).
>
> Discrimination in service, accommodation, etc.
> 13(1) No person shall discriminate with respect to any service, accommodation, facility, good, right, license, benefit, program, or privilege available or accessible to the public or to a section of the public, unless bona fide and reasonable cause exists for the discrimination.

It is clear these provisions obligate taxi operators to make reasonable accommodation for the special needs of persons confined to wheelchairs.

The Code does not define "reasonable accommodation". However, the Manitoba Human Rights Commission has issued a policy which states in part:

> "1. It is understood that reasonable accommodation includes:
>
> (a) Making buildings, facilities, and services accessible to persons with physical disabilities through, for example, structural changes, or the provision of and modification to equipment and other devices;
>
> . . . .
>
> 2. The duty to reasonably accommodate does not extend so far as to cause undue hardship to the person responsible for the activity or undertaking. The burden of proving that undue hardship renders the accommodation required to meet the needs of the Complainant unreasonable rests with the Respondent."

There are vehicles available which can be modified for use as wheelchair accessible taxis. Thus, the key issue is whether requiring taxi operators to use such wheelchair accessible vehicles would cause undue hardship to the operators.

In the Final Argument and Rebuttal dated February 22, 1989, submitted on behalf of the Manitoba League of the Physically Handicapped Inc. it is asserted:

> "32. With respect to cost it is the League's position that the Board should only consider costs to be an undue hardship if such costs are:
>
> 1. quantifiable;
> 2. shown to be related to the accommodation; and
> 3. (a) so substantial that they would alter the essential nature of the enterprise, or
> 4. (b) so significant that they would substantially affect the viability of the enterprise."

As discussed above in Section 2 of this report, the Winnipeg taxi industry is comprised of approximately 360 owner operators holding 400 licences. The vast majority of licence holders operate only one vehicle.

Evidence before the Board indicates the typical licence holder currently operates a vehicle which was purchased used for a sum of approximately $5,000. Evidence also indicates that the wheelchair accessible vehicles currently available cost in the order of $30,000.

Section 3 of this report analyzes the industry financial position. The Board is satisfied from this analysis that to require individual operators to place in service a wheelchair accessible vehicle, thereby requiring an increase in their investment in a vehicle by approximately 600%, would clearly substantially affect the viability of their operations and the value of their businesses, and therefore would impose undue hardship.

Further, given the relatively low level of demand for wheelchair accessible service in relation to regular service, and the relative cost of wheelchair accessible vehicles, it would be patently unreasonable to require all taxis to be wheelchair accessible. Given the owner operator structure of the industry, it would be unreasonable to arbitrarily select a group of owner operators and direct them to use wheelchair accessible vehicles.

Of the individual owner operators, 95% are affiliated with one of the two major dispatch companies, Duffy's Taxi Ltd. and Unicity Taxi Ltd. The issue of whether the dispatch companies themselves are required by the Human Rights Code to place in service wheelchair accessible vehicles is more difficult than whether the owner operators individually are under that obligation.

From the perspective of taxi owner operators and the dispatch companies, the companies themselves do not provide taxi services to the public. Strictly speaking, in relation to the public the dispatch companies are merely agents of the actual service providers, whose only service to the public is connecting persons seeking taxi service with the service providers. Therefore, it is arguable that in a strict legal sense the dispatch companies do not provide taxi service to the public within the meaning of subsection 13(1) of the Human Rights Code, and accordingly there can be no duty on the dispatch companies themselves to provide wheelchair accessible vehicles.

However, the Board rejects this argument. In our view, the Human Rights Code should be interpreted liberally, not strictly, in order that its remedial purposes may better be achieved. The dispatch companies themselves are obliged not to "discriminate with respect to any service" they offer to the public, within the meaning of subsection 13(1). From the perspective of the public, it is in fact the dispatch companies who hold themselves out as offering taxi service to the public, not merely the service of connecting a rider with a service provider.

Therefore, in the opinion of the Board, the dispatch companies are obliged under the Human Rights Code to provide reasonable accommodation for the special needs of the disabled in the provision of taxicab services. Unless to do so would impose undue hardship, the dispatch companies are required by the Code to dispatch a wheelchair accessible vehicle upon the request of a person with a special need for such a vehicle based on a physical disability.

The entire Winnipeg handivan industry performs approximately 160,000 trips per annum (Merrett, 1987, Table 1, page 18). Assuming this is a fair "ball park" estimate of the number of wheelchair passenger trips accessible vehicles would make, and further assuming each of Winnipeg's accessible taxis would transport the same number and proportion of wheelchair passengers per annum as those in Vancouver, being 4,400 (Vancouver Taxi Ltd., 1988), 36 wheelchair accessible vehicles would be required to provide adequate service. This is 9% of the current Winnipeg fleet.

If Winnipeg's accessible taxis achieved the same level of ridership of Vancouver's, based on our population, the quota of wheelchair vehicles could safely be set at 48.

In the view of the Board, it would not impose undue hardship on large dispatch companies to require 9% of the vehicles in their fleets to be wheelchair accessible vehicles.

Arrangements could be made with handivan operators, who may be interested in placing in service wheelchair accessible vehicles in accordance with Recommendation 19, to join the dispatch companies; if such were done, there would be no hardship to the dispatch companies whatsoever.

Should an insufficient number of the handivan operators affiliate themselves with a dispatch company, the Board could issue licences to the dispatch company, conditional upon the placement in service of an appropriate vehicle. This would also not result in any financial burden on the Company whatsoever, as the operation of the vehicles would likely be profitable.

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EXHIBIT 13

FINANCIAL MODEL

ACCESSIBLE TAXI OPERATION

Meter revenue		77,450
Expenses		
Fuel	7,850	
Repairs and maintenance	4,600	
Employed drivers' wages	19,350	
Employed drivers' benefits	1,350	
Professional fees	200	
Dispatch fees	5,000	
Insurance	3,100	
Licences	200	
Depreciation	7,600	
Miscellaneous	250	
Owner inputs		
Driving time	20,700	
Management services	1,750	
Return on investment in vehicle and equipment (Return on $31,000 at 15%)	4,650	
Excess profit		850

Assumptions:

1. Fuel costs, dispatch fees, and insurance are the same as for a regular taxi.

2. Meter revenue and driving costs are taken from Exhibit 2.

3. Repair and maintenance costs are taken from the generic business plan for an accessible taxi prepared by the Ontario government; $50 per month for the first 6 months and $400 per month thereafter. The annualized cost of repairs and maintenance is $4,250 plus $350 per year for car washes.

4. The vehicle costs $30,000 and lasts 4 years; other equipment costs $1,000 and lasts 10 years. Total capital invested in vehicle and equipment is $31,000, and the annual depreciation expense is $7,600.

Exhibit 13 is a financial model for a wheelchair accessible taxi operation. The capital cost of the vehicle is assumed to be $30,000. The expected income of $77,450 is the same income the Board has inferred purchasers of regular taxis expect (see section 3.3 and Exhibit 2). The model demonstrates a wheelchair accessible taxi operation in Winnipeg which operates under a "free" licence would likely be in substantially the same financial position as a regular taxi operator who recently paid $45,000 for the licence.

The adverse impact on existing licence holders of such a quota increase would be minimized by the fact they would hold the licences themselves through the Company, and by the increased demand for service from wheelchair passengers and members of the public who require a larger van-type vehicle for other reasons.

The economic feasibility of wheelchair accessible taxis has been demonstrated in other communities. In Vancouver, the service has been in place and viable for over four years, and is currently being expanded, without any government subsidy other than a free licence. Under the Ontario Wheelchair Accessible Taxi Program (which provides a $5,000 capital incentive grant), accessible taxis have been placed in service in 17 municipalities; in 11 more the decision has been taken to place the vehicles in service; and in a further 15 the issue is under discussion (Ontario Ministry of Transportation, January, 1990).

Indeed, the performance of accessible taxis in other communities also suggests that, rather than imposing a hardship, their operation is likely to provide an opportunity to engage in a profitable enterprise.

However, should it appear necessary, in order to ensure the viability of accessible taxis, the Government may wish to consider some form of subsidization, such as a capital grant as under the Ontario program, a rebate of provincial sales tax, interest free loans, or loan guarantees.

RECOMMENDATION 17

It is recommended that the Board develop standards for wheelchair accessible taxis in consultation with the Taxicab Advisory Committee.

RECOMMENDATION 18

It is recommended that

(a) the Board require all dispatch companies with 11 or more vehicles operating under the name of the company to place and maintain in service 1 wheelchair accessible vehicle which meets standards established by the Board, for every 11 vehicles operated under the business name of the company;

(b) this recommendation be phased in over a period of three years, as follows: 1 wheelchair accessible vehicle for every 33 in the first year; 1 for every 22 in the second year; and 1 for every 11 in the third year;

(c) handivan licence holders who choose to place in service a suitable vehicle in accordance with recommendation 19 be encouraged to affiliate with a dispatch company in order that the company's quota of wheelchair accessible vehicles can be achieved with minimal disruption; and

(d) if an insufficient number of handivan licence holders affiliate with a dispatch company, the company be issued the required number of operating licences at no cost, conditional upon the placing and maintaining in service a wheelchair accessible vehicle which meets the standards established by the Board.

6.3.2 Obligations of the Board

6.3.2.1 The Human Rights Code

Section 57 of the Human Rights Code provides that the Code is binding on the Crown, and section 58 provides that the rights and obligations in the Code are paramount over rights and obligations in every other Act. The Board is therefore obliged to administer its regulation of the taxi industry in Winnipeg under the Taxicab Act in compliance with the Code.

Board regulation of taxicabs is a "benefit" or "program" available to the public, within the meaning of subsection 13(1) of the Code, and therefore in its administration of this program, the Board shall not discriminate.

Subsection 9(3) of the Code provides:

> Systemic discrimination
> 9(3) In this Code, "discrimination" includes any act or omission that results in discrimination within the meaning of subsection (1), regardless of the form that the act or omission takes and regardless of whether the person responsible for the act or omission intended to discriminate.

The Board by establishing a separate class of licence for the transportation of persons confined to wheelchairs and their escorts intended to benefit that segment of the public. However, the restriction on the handivan licence to wheelchair passengers has unintentionally resulted in systemic discrimination.

It is clear from the evidence before the Board that if wheelchair accessible vehicles could transport members of the general public, the cost per trip for disabled persons would be reduced substantially, to close if not equal to the level of fares for regular taxi service. The restriction to wheelchair passengers reduces substantially the operational efficiency of the service, necessitating substantially higher fares. There are simply too few wheelchair passenger trips to allow optimal use of the vehicle.

The prescribing of higher fares for wheelchair passengers is "differential treatment" by the Board on the basis of physical disability, within the meaning of clause 9(1)(b) of the Code, and thus constitutes discrimination. Unless there is a bona fide and reasonable cause for this discrimination, the Board must take action to eliminate it.

Certainly there are services that go beyond mere transportation that will increase the cost of a specialized handicapped transportation service. These extra costs would be a bona fide and reasonable cause for discriminatory fares. However, aside from the higher costs for the vehicle, wheelchair accessible taxi service does not go beyond courteous assistance from the curb into the vehicle, and many current handivan users are not in need of any further specialized services.

Exhibit 13 indicates wheelchair passengers could feasibly be provided taxi service at regular taxi fares, provided a vehicle suitable for ambulatory passengers is used and the restriction against transporting ambulatory passengers is removed. The necessary vehicles are available. The Board has the power and the duty to remove the restriction.

The restriction to wheelchair passengers protects existing regular taxi licence holders from a loss of revenue from ambulatory passengers, to the wheelchair accessible services, and thereby protects the value of the regular licences. The essential question in this issue is whether the protection of the revenue of existing licence holders and their licence values is a bona fide and reasonable cause that justifies discrimination under subsection 13(1). In the opinion of the Board it is not.

The purpose of economic regulation is not to protect existing operators. The purpose is to ensure in the public interest that all users receive adequate service at reasonable cost. One of the means to achieve this purpose is to maintain a quota of licences and set fares in a manner that will ensure a stable and viable industry. If removing the handivan licence restriction, and thereby effectively increasing the licence quota, would significantly destabilize the industry, a bona fide and reasonable cause may exist for continuing the systemic discrimination. However, the Board is of the view removal of the restriction will not do so, for a number of reasons.

Firstly, it is certain from the representations received at the public hearings that not all handivan licence holders will wish to transport the general public. There will still be a market for a specialized service restricted to the handicapped, and many will wish to remain in that market.

Secondly, there will be substantial demand for the service from wheelchair passengers, particularly given the lower fares. The vehicles will not be as available to the general public as a regular cab; about 30% of fares will be wheelchair passengers (Vancouver Taxi Ltd., 1988).

Thirdly, for the above reasons the effect will be similar to a relatively small increase in the quota of likely not more than 5%. The effect could be ameliorated by a small fare increase, if necessary, which would distribute the cost of eliminating the systemic discrimination among all users.

And fourthly, and perhaps most importantly, removal of the restriction will allow the regular industry to fulfill its obligation to provide reasonable accommodation discussed above at minimal cost: the dispatch companies would only need to enter into an arrangement with the existing handivan operator to provide dispatch services for the operator's wheelchair accessible taxi.

6.3.2.2 The Charter of Rights and Freedoms

Subsection 15(1) of the Canadian Charter of Rights and Freedoms provides:

> 15(1) Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age, or mental or physical disability.

The Board is subject to this provision of the Charter, and therefore is obliged to ensure that the regulatory structure it establishes and maintains provides equal benefit without discrimination based on physical disability, unless, as provided in section 1 of the Charter, the lack of equality is "demonstrably justifiable in a free and democratic society".

The Board is of the view the principles developed under human rights legislation are generally applicable to the interpretation of equality under the Charter, so much of the discussion in the previous section applies here.

Currently, the regulatory structure results in a system whereby the benefit of legally regulated fares has a differential impact based on whether or not the passenger is confined to a wheelchair. Wheelchair passengers have higher fares.

The different fares would be demonstrably justifiable from the perspective of Board regulation if they were based solely on legitimate cost differences. However, in the opinion of the Board, to the extent the increased costs result from regulatory restrictions on what persons the operators may transport, based on the personal characteristics of the persons, the Board is in breach of the Charter.

As discussed above, the increased costs to a large extent result from the impairment of the efficiency of the operators due to the restriction against the transport of ambulatory passengers.

The Charter of Rights and Freedoms therefore requires the Board to eliminate this restriction on handivan licence holders.

RECOMMENDATION 19

It is recommended that the restriction of existing handivan licences to wheelchair passengers and their escorts be removed, subject to the condition that the licence holder places in service a wheelchair accessible vehicle which meets standards established by the Board, within a certain time period to be set by the Board, or until the quota referred to in recommendation 18 is achieved.

RECOMMENDATION 20

It is recommended that City of Winnipeg Handi-Transit give serious consideration to the utilization of licenced wheelchair accessible taxis on a contract basis similar to its current arrangements with Unicity Taxi Ltd. in respect of regular taxis, in lieu of the large buses currently in service, in order to substantially reduce their own cost of operation, and substantially improve the viability of wheelchair accessible taxi service.

7. OTHER CONCERNS

7.1 Enforcement

Substantial concern has been expressed with respect to the Board's ability to enforce both licencing requirements and service standards.

Unfortunately, it is difficult to obtain evidence sufficient to satisfy a Provincial Court Judge beyond a reasonable doubt, that compensation has been paid for unlicenced taxi or limousine services. The only people who know this as a fact are the customer who hired the taxi or limousine and its operator. The operator is protected by the right against self-incrimination and the customer is invariably exceedingly reluctant to give any sort of statement.

The problem of obtaining sufficient evidence to convict an illegal operator is compounded by deficiencies of the legislation. The Taxicab Act provides for a fine of between $50 and $100 for a first offense and $100 and $200 for a second or subsequent offense, which is not an effective deterrent when combined with the low probability of detection and conviction. As well, the illegal operator must be convicted twice before his vehicle registration can be canceled and he is effectively taken off the road.

RECOMMENDATION 21

It is recommended that an amendment to the Taxicab Act be made to give the Board the power to take action itself against illegal operators as a civil matter, rather than having to proceed through the criminal court. The provision should include powers to impose a monetary penalty and to direct the registrar to cancel vehicle registrations.

The precise wording of the provision should be determined on the advice of legislative counsel.

A similar amendment was made to Part VIII of the Highway Traffic Act a couple of years ago to deal with a similar problem confronting the Motor Transport Board at the time.

With respect to the problem of service standards, it is impossible for the Board to have enough inspectors to ensure compliance without willing compliance on the part of the vast majority of licence holders.

Prior to the industry's evolution to an almost exclusively owner-operator structure, drivers and vehicles would report and be inspected daily by the dispatch company itself prior to going on the road. Currently, an owner operator or employed driver can start work without the dispatch company seeing the vehicle and even being advised who is driving the vehicle.

The problem of poor industry self-enforcement of service standards under an owner operator structure is discussed in detail in sections 2.1 and 2.2.

RECOMMENDATION 22

It is recommended that the Board improve its regulation of service levels, and that the industry be called upon to play a greater role in self regulation of service levels, through the following means:

(a) the drafting and issuance as a Board regulation of a Code of Professional Conduct for Taxicab Drivers, Owners, and Dispatch Companies, in consultation with the industry and the Taxicab Advisory Committee;

(b) a requirement in the Code for dispatch companies to compel drivers to report on a random basis and periodically, for inspections by a dispatch company supervisor;

(c) a requirement in the Code that dispatch companies maintain a reliable system by which a record of who is driving all vehicles operated in the name of the Company at all times is created and maintained, which system shall include driver permits issued by the dispatch company;

(d) a requirement in the Code for dispatch companies with more than 20 vehicles to employ a mobile supervisor-inspector, having the authority to randomly stop company vehicles and inspect them and the driver's licence and dispatch company permit;

(e) the provision to the Board of clear legislative authority to directly regulate the operations of dispatch companies, and to delegate regulation making power to dispatch companies to ensure they have proper legal authority over affiliated owner operators, through amendments to the Taxicab Act;

(f) the prescribing by the Board of proper procedures for the hearing and determination of disciplinary proceedings by the management of the dispatch companies, which allow for an appeal to the Board from decisions of the management, with leave of the Chairman; and

(g) a requirement in the Code for dispatch companies to file monthly reports on their disciplinary proceedings with the Board.

The Board itself requires more resources to conduct inspections. As stated by former Chairman MacDonald in his submission to the Board:

> "We also need people to implement the actions necessary to enforce these regulations. In my opinion, the resources at the Taxicab Board should be substantially increased for proper enforcement of Taxicab Board regulations in the immediate future."

RECOMMENDATION 23

It is recommended the Board inspector position, and the clerical position, which were approved for a six month term in connection with the establishment of regulation of passenger vans, and the term position obtained in connection with the establishment of the taxi driver training course, be made permanent.

Adoption of this recommendation will result in a complement of 4 permanent inspectors, allowing 33% more Board inspections than if the position was not made permanent, and will allow sufficient clerical staff to support the inspection activity.

7.2 Financial Concerns

7.2.1 Insurance costs

A number of taxi owners complained at the hearings respecting the high costs of vehicle insurance provided by the Manitoba Public Insurance Corporation.

The Board has no jurisdiction whatsoever to review the premiums charged taxi operators by MPIC. However, in fulfilling its responsibility to ensure a viable taxi industry, it would not be inappropriate for the Board to intervene in the activities of MPIC to request a detailed explanation for the level of premiums, which could be communicated to taxi owners.

Such an explanation should include not only data on the ratio of claims per vehicle, the average cost of claims, and the total cost of claims in relation to premiums received, but also data on the proportion of accidents in which taxi drivers have been ruled at fault and an explanation of the relevance or irrelevance of this data to the level of premiums.

7.2.2 Concession charges and exclusive rights

Some hotels and the airport charge a taxi dispatch company a fee in return for which the company is given an exclusive right to serve the location.

The Board is of the view that such charges are not in the interests of the public. They reduce the income of taxi operators and put upward pressure on fares, without any improvement in quality of service. They provide no economic benefit whatsoever. Indeed, by restricting competition at a location, concessions may have an adverse effect on quality of service.

The decision as to whether or not to allow a cab company to serve a location should be made by the property holder solely on the basis of whether the company meets objective service standards, and not on the amount the company is willing to pay for the privilege. All companies who meet the objective service standards established by the property holder should be allowed to service the facility.

This issue is of particular relevance to the Winnipeg International Airport. There is legitimate concern that without an exclusive contract, service adequacy is more difficult to ensure. However, the Board is of the opinion that other means can be set in place to ensure service adequacy, not the least of which is service competition.

The Board concurs with the recommendation of the Economic Council of Canada (1981) that:

> "when existing contracts granting exclusive privileges to service federal airports expire, the right to carry passengers to and from such airports be extended to all licenced taxicab owners."

RECOMMENDATION 24

It is recommended that the Board issue a regulation prohibiting:

(a) the payment or receipt of concession charges, other than direct charges for expenses related solely to the provision of services to taxi operators (such as dispatch services, direct telephone line expenses, etc.); and

(b) the provision of exclusive rights to a particular taxi company.

7.2.3 Airport waiting time

Drivers and owners appearing at the hearings and subsequent meetings of the Board have complained that waiting time at the airport imposes a substantial burden on operators and should be compensated.

The Board at the time indicated it was prepared to consider the appropriateness of an airport surcharge or minimum fare if the company serving the airport, Unicity Taxi Ltd., provided the Board with precise data pertaining to the waiting time between fares of operators serving the airport and operators serving other areas, in order that it could be assured any additional charge was justified. This data has not yet been provided.

It is possible that greater waiting time is acceptable at the airport due to the certainty of receiving a fare and the likelihood it will be for a longer trip than in other areas.

RECOMMENDATION 25

It is recommended that, subject to the implementation of recommendation 24, a minimum fare or surcharge be imposed for airport service as part of a broader plan for improvement of taxicab service at the airport, if the Board is satisfied by the industry that the waiting time between fares for operators serving the airport is consistently longer than for other operators, to the extent that those serving the airport can not do so adequately without the minimum fare or surcharge.

7.2.4 Subsidization

Former Board Chairman Allan MacDonald appeared at the hearings and argued the case for subsidization of the industry in the following terms:

> "In my opinion, a major problem in the industry today relates to the inadequate level of compensation and return on investment for owners and drivers. Unfortunately, an increase in fares is a simplistic response which may not address the real concern, particularly when one considers that one-third of the customers are disabled or senior citizens or persons on fixed incomes. Any increase in fares directly impacts upon these persons and the resulting loss of market affects the drivers and the owners. As a consequence, an increase in fares could adversely affect the welfare of the industry. The solution is to maintain an affordable level of service for seniors and others, but to ensure that the drivers and owners are fairly compensated. And where there is a financial shortfall between these parameters, as I believe there is, to redirect some financial assistance presently available to tourism and hospitality and public transportation into the proper maintenance of this vital Winnipeg industry."

Mr. MacDonald is right when he asserts a fare increase is a simplistic solution to the problem he describes, not only for the reasons he indicates. As discussed in section 3 of this report, as long as the Board allows the free transfer of licences at any price, any fare increase which results in an increase in industry returns above "normal" (existing) levels will be capitalized and removed from the industry with the sale of the licence, leaving the next generation of owners in a position where they too will complain about the low returns.

Mr. MacDonald failed to note the same problem would occur with a subsidy of the industry. The subsidy would increase returns, but only for existing licence holders. As they left the industry, they would get a higher price for their licence than if there was no subsidy. That higher price would reflect the capitalized value of the subsidy. Those exiting the industry would effectively take much if not all of the subsidy with them, leaving the industry in only a marginally better position than if public funds had never been expended.

This would not occur if payment of the funds were conditional on a specific expense being incurred, such as the purchase and placing in service of better quality vehicles, but this would do nothing to achieve the purpose of higher returns to the industry. In any event, it is the view of the Board that given the current regulatory structure, vehicle quality should be improved through the recommendations in section 4 of this report.

There is a legitimate economic argument for the subsidization of the taxicab industry. The "image" of the City conveyed by the industry is a common economic good that is not taken into account by the individual buyers and sellers of taxi services. In other words, a superior quality taxi service has external economic benefits for the community, but the market will not provide those benefits as individual riders are not willing to pay for them. Further, the excess capacity necessary to allow for "reasonable" response times during peak demand periods is also a common good; welfare may be increased by increasing capacity through a subsidy, although individual passengers may not be willing to pay the higher cost associated with lower response time.

It is at least arguable therefore that the taxi industry through regulatory measures should not be forced to enhance the "image" of the City. Taxi operators should not be called upon to provide better services than those for which customers are prepared to pay. If the general community wants a better image of itself conveyed to the world than the market for taxi services can provide, then the general community should pay the cost of conveying that image.

However, this argument is difficult to support in the context of a system of economic regulation of entry and fares that has resulted in taxi licences having a value in the order of $50,000 and a quota of licences that is the lowest per capita in the nation. Through this system, the taxi riding public is already "subsidizing" the industry through higher fares than would occur in a freely competitive market. Again, unfortunately, for the most part this "subsidy" is being enjoyed by those who have either held their licences for a long time or sold them.

Further, from the analysis of the industry financial position in section 3, it is likely that a significant proportion of income from taxi operations is not reported to Revenue Canada. Thus, it is probable many members of the industry already receive a significant subsidy in the form of tax free income.

Any consideration of subsidization of the taxicab industry should include consideration of the work of Papillon (1982) on the relation between the demand for taxi services and the extent of subsidization of mass transit. At pages 77-78 of his paper, the author makes the following "rough assumption: mass transit subsidies can generally be expected to reduce the size of the individual and collective taxi industry by at least as much as half the ratio of these subsidies to the total cost of the mass transit services." On this assumption, he projects that if the effect of mass transit subsidies was eliminated, the optimum number of taxis in Winnipeg would be 719, an 80% increase over the current number.

At pages 82-83, Papillon goes on to state:

> "Furthermore, if subsidies must be paid to a specific means of transport in the name of fairness, it is not at all evident that mass transit would be the one selected.

> "The poor, with no access to an automobile, primarily require a transport service that is a low-cost substitute for the private automobile, and the combined individual and collective taxi is exactly this substitute means. As an indication of this basic need of the poor, even when expensive taxis in individual service are the only form of door-to-door public transport available, the poor continue to comprise a major portion of this clientele, as discussed in Chapter 2. On the other hand, mass transit used efficiently links suburban neighbourhoods, bringing the middle or upper classes to the downtown area, where it serves the main thoroughfares. If subsidies must be paid to one means of transport in the name of social justice, it appears that taxis serving the poor would be the primary candidate."

The author concludes at pages 87-89:

> "Mass transit subsidies also can prevent taxis from playing an optimal role in urban transport. When these subsidies are used -- as most often appears to be the case -- to extend the transit network into markets there the combined individual and collective taxi is best suited to serve at the lowest cost, the role of the latter is restricted, and potential economies of density are not achieved.
>
> Therefore, to achieve more efficient utilization of taxis in urban transport, changes are necessary in their regulation as well as in some mass transit policies. This raises the issue of the cost of such changes. The most notable cost is the loss, following abolition of limits on the number of taxis, suffered by operators holding taxi licences in a city where such licences have a high market value. One solution may be to ignore this cost, as was done in 1946, when the City of Montreal decided to issue new licences at a time when those already issued had a market value of about $5,000. For obvious reasons, we find such a solution unacceptable in the present context. In buying back the taxi licences from taxi operators at the current market value, all or part of mass transit subsidies, in our opinion, are an excellent source of funds.
>
> In the case of the City of Montreal, for example, the amount of subsidies paid to mass transit in a single year are more than adequate to buy back all licences in the Montreal region. In some cities such as Toronto, it may be necessary to use subsidies covering more than one year while, in Ottawa, subsidies for just six months are fully adequate. This temporary transfer of funds from mass transit to taxi transport can be justified in terms of both efficiency and equity. First, these subsidies are used to support mass transit in markets where it is a inefficient means of transport,

> which the combined individual and collective taxi can better replace, once the restrictions governing it are abolished. Second, this transfer would make it possible to give taxi operators fair compensation. At the same time, abolition of the restrictions on taxis would permit a reduction in taxi fares, while the transfer would ensure that savings are passed on to the poor, whose needs are met more specifically through taxis than through mass transit."

The Board does not believe it should make a recommendation to the government on whether or not to subsidize the taxi industry without being expressly requested to do so, as it involves a major policy decision beyond the scope of the Board's regulatory authority, involving prioritization of a major expenditure of public funds.

However, the consultation and research conducted by the Board supports the provision of the following advice: the government should consider the question of subsidization of the taxi industry only in conjunction with a substantial increase in the taxicab licence quota, a reduction of taxi fares, the imposition of service and vehicle quality standards, a reduction in the level of subsidization of mass transit, and stringent financial reporting requirements for licence holders.

7.3 Provincial vs. City Regulation

Mr. MacDonald also raised the question of the appropriateness of the industry being regulated by a Provincial Board in the following terms:

> ". . . the ongoing role of the City of Winnipeg in the regulation of this industry requires closer examination. At least one major study of the industry within the past several years has suggested an expanded involvement by the City in upgrading this industry. Winnipeg is almost unique in being one of the major cities in North America not directly controlling its taxicab industry."

Regulation of the taxi industry in Greater Winnipeg by the Province was originally necessitated by the fact that the Metropolitan area encompassed a number of cities and municipalities. Effective coordination of intra and inter-municipal services required a single regulatory authority.

With the amalgamation of the Metropolitan Winnipeg into "Unicity" in 1972, this rationale for provincial regulation was eliminated.

Within Canada, only the Province of Quebec regulates taxi services which operate entirely within a particular municipality, although Provincial agencies in other jurisdictions do regulate taxis in metropolitan areas. For example, the B.C. Motor Carrier Commission regulates taxis which operate across the boundaries of the municipalities of Greater Vancouver.

There are good arguments for the transfer of regulatory jurisdiction over the Winnipeg taxi industry to the City.

Papillon (1982) states:

> "Finally, establishing the relationships between the various means of transport raises the issue of which level of government is to be responsible. In view of the local nature of transport services provided by the three means considered above, local governments, in our opinion, are naturally the authorities best suited to provide an adequate legal framework."

It is clear planning and coordination of all urban transport services, including regular taxis, handivans, handi-transit and mass transit, would be most effectively carried on by the same level of government.

Further, as a matter of principle the local transportation service provided to the residents of a city should be controlled by the local government of the city. It is the City that bears the burden of a poor image of it conveyed by its taxi industry; the City should have the power and responsibility of taking the remedial action it sees fit.

There are admittedly advantages to continued regulation of the industry by the Province. The appointment of the full time Chairman of the Motor Transport Board and the sharing of Transport Board staff and resources has improved the Taxicab Board's ability to address regulatory issues substantially, while providing overall economies that might not be achievable if a separate organization is established at the City.

As well, the civic political environment may not be conducive to independent decision making, free of extraneous political considerations. This concern could be adequately addressed by the establishment of an independent commission, similar in role to the current Board, but accountable to City Council.

On balance, in the view of the Board the advantages of City regulation outweigh the disadvantages.

RECOMMENDATION 26

It is recommended that

(a) after the major recommendations of this report are implemented, the Government enter into negotiations with the City of Winnipeg leading to the transfer of regulatory authority over Winnipeg taxicabs to the City; and

(b) the Government continue the current sharing of resources of the Motor Transport Board with the Taxicab Board as long as the Province continues to regulate the taxicab industry.

7.4 Ideal Organizational Structure of the Regulator

Coffman (1977, page 293) argues:

> "We can start by observing that it is not sensible to advocate government regulation simply because an unregulated industry fails to operate as a perfectly competitive industry should. Regulation may also operate imperfectly, and perhaps create an even larger welfare loss than would have been suffered in the absence of regulation. For example, a regulatory agency may be "captured" by the regulatees, who will then turn the power of the state to their own ends, perhaps creating and protecting monopoly power which would not have existed in the unregulated industry."

The Board is of the view that to some extent this statement has historically been applicable to itself.

The Board has never obtained the resources necessary to properly regulate. Fare regulation has been based on unsubstantiated representations of the industry. The quota has been maintained for over 40 years, contributing to spiraling licence prices. Vehicle standards were adjusted at the request of the industry to allow smaller vehicles. Old vehicles were permitted in service without restriction beyond meeting minimal standards. And so on.

Coffman goes on to suggest (at page 294) the cause of imperfect regulation may lie in the nature of the institution doing the regulating: a permanent regulatory agency run by career bureaucrats, or regulatory commissions appointed for limited terms. Coffman concludes (at page 295):

> "A realistic empirical judgment might be that in practice the relative cost to regulators of not pursuing the public interest is quite low in many cases, and so it would be unusual to find a regulatory agency devoting the greater part of its resources to the public interest."

Should the government determine the public interest is served by transferring regulatory jurisdiction over taxis to the City of Winnipeg, a prime opportunity will exist to establish an organizational structure for the regulating body which will maximize the likelihood its regulation will serve the public interest.

The current Board offers its advice to the Government and the City in this regard.

7.5 Board Composition

A number of presenters argued that industry representation on the Board was required.

Mr. MacDonald suggested:

> "The legislation might also be examined with a view to increased representation of owners and drivers and users on the Board itself with a view toward more effective regulation of their industry."

The Board concurs with this suggestion, with the caveat that a Board member not be allowed to maintain any interest whatsoever in a licence holder or a dispatch company, or to hold a taxi driver's licence. It would be an unacceptable conflict of interest to have a person with a personal pecuniary interest in an industry on the board which determines the financial returns in that industry.

RECOMMENDATION 27

It is recommended the Manitoba Taxicab Board membership be increased to 7, comprised as follows:

(a) 2 members with experience in the industry and knowledge of industry concerns;

(b) 2 members with knowledge of user concerns, including those of the mobility disadvantaged;

(c) at least one member, a Chairman or Vice-Chairman, who is a lawyer;

(d) if possible, at least one member, a Chairman or Vice-Chairman, who is educated in urban transportation economics; and

(e) one member who is a representative of the Police Department.

Elected politicians should not serve on the Board, as their partisan political goals and obligations may be or appear to be in conflict with the needs of independent and effective regulation, and the constraints on their time make them generally ineffective as Board members.

7.6 Driver Related Concerns

7.6.1 Driver theft

A number of presenters in explaining the difficulties faced by taxi owners informed the Board that drivers notoriously steal a significant percentage of fares.

The means exist to control driver theft if the owner considers it in his or her interests to implement them. Receipt printing meters capable of producing a print-out of the days' trips and receipts are available, and even existing meters can be read by the owners. Further, the ratio between miles traveled in a shift and fares received is fairly consistent; a driver who is "high flagging" (not turning on the meter) would have a consistently high ratio of miles traveled to fares reported.

RECOMMENDATION 28

In order to assist owners in the detection and prevention of driver theft, and to facilitate financial record keeping and reporting, it is recommended

(a) owners be required to install receipt printing meters and to produce a print out of the trips and receipts for every shift;

(b) drivers be required to provide a receipt to every passenger; and

(c) owners be required to retain the records of the trips and receipts for each shift for an appropriate period and to produce the records for inspection on the request of the Board.

7.6.2 Driver shortage

A number of presenters described the difficulties many operators experienced in obtaining drivers.

Taxi drivers experience long hours and relatively low levels of remuneration. Like any labour market, if there is a shortage of supply of labourers, there will be upward pressure on remuneration. The solution to this problem is in the hands of the licence holders. Increase the relative share of driver earnings or improve the working environment through other means, and more people will be interested in working as taxi drivers.

Given the concerns respecting a lack of drivers, the Board was of the view that there should be no artificial, Board imposed restrictions on the flexibility of drivers to work for any employer. The restriction on the taxi drivers' licence to work for a particular company imposed inefficiencies in the use of the existing labour supply. In part for this reason, the Board eliminated this drivers' licence restriction on December 20, 1989. In order to ensure dispatch company management maintained control over their drivers, the Board has required by regulation the drivers to obtain a permit from the dispatch company management before driving a cab under the business name of the company.

7.6.3 Driver remuneration and hours of work

There is no verifiable data on the earnings of taxi drivers. From the financial information discussed in section 3 of this report, the best guess is that the typical driver earns between $5.00 and $6.00 per hour, plus tips.

In the "Alternatives" discussion paper, the Board had proposed to regulate drivers' wages by instituting a minimum hourly wage. This would ensure the ability of the owner to select his own hours of work would not result in low returns to drivers.

Board Regulation T10-R2 currently requires a minimum wage of 45% of gross fares, or $1.55 per hour, whichever is greater. The existence of this regulation has resulted in the Labour Board refusing to enforce minimum wage requirements of the Employment Standards Act for taxicab drivers.

The Board does not believe it is in a position at this time to determine the issue of whether it should establish a minimum wage for drivers above that required in the Employment Standards Act, and if so, what that wage should be. The changes proposed in this report will positively affect the relative bargaining position of drivers, and given the current shortage, the problem may resolve itself. Further, an application has been made to the Board to increase the returns to drivers, and the Board will have the opportunity to consider the question in greater depth in the context of that application.

However, employed drivers should be entitled to the protection of the Employment Standards Act. Enforcement of its minimum wage requirements should have no adverse effect on the industry. Drivers currently likely receive this amount, and a guarantee of minimum wage would be unlikely to result in many non-productive drivers. The incentives of higher earnings and continued employment should be sufficient to result in production by the driver of revenue for the employer at least equal to this amount.

RECOMMENDATION 29

It is recommended that:

(a) the Board not institute a minimum wage for drivers above that required under the Employment Standards Act, at this time; and

(b) Revised Regulation T10-R2 be repealed, and the Labour Board be called upon to enforce the minimum wage requirements of the Employment Standards Act in respect of taxi drivers; or alternatively,

(c) should the Employment Standards Act not be enforceable in respect of taxi drivers, it is recommended the Board institute a new regulation prescribing that drivers are to receive no less than the minimum wage prescribed under the Employment Standards Act from time to time.

7.6.4 Driver safety

Driver safety issues were raised at the public hearings, although it is interesting to note only one presenter speaking on his own behalf suggested safety shields be made mandatory, and little in the way of substantive information or productive suggestions for addressing the issues was provided.

Driver safety issues are currently being thoroughly addressed by a Task Force with representation from owners and drivers. For this reason, they will not be addressed in this report.

7.7 Taxicab stands

A number of industry members in their submissions to the Board expressed concern respecting the lack of taxicab stands and their poor location in the city.

The Board is of the view these concerns are legitimate, and that immediate action on the issue should be taken.

The Board has the authority to establish taxi stands under clause 17(1)(i) of the Taxicab Act. It is time it exercised that authority.

RECOMMENDATION 30

It is recommended that:

(a) the taxi industry be immediately requested to provide a list of locations in which taxi stands are necessary or desirable to allow the industry to adequately serve the public;

(b) the Board review this list with appropriate officials of the City of Winnipeg and determine the locations at which taxi stands will be established; and

(c) the Province negotiate a cost sharing arrangement with the City for the cost of appropriate signs at these locations.

7.8 Regulation vs. Deregulation

A final issue that must be addressed is whether it is appropriate to continue economic regulation, i.e. control of entry and fares, in the Winnipeg taxicab industry.

Since regulation requires resources and thereby imposes costs, it is apparent that regulation can only be justified if it produces better results than an unregulated market.

With respect to the taxicab industry, very little empirical research has been carried out on the relative merits of regulation versus deregulation. Teal and Berglund (1987) studied the impact of taxicab deregulation in nine American cities and arrived at the following conclusions (p. 54):

> Taxicab deregulation cannot be demonstrated to have produced, in most cases, the benefits its proponents expected. Prices do not usually fall, improvements in service are difficult to detect, and new price-service combinations have not been developed. There is little evidence that either consumers or producers are better off. The one important exception is new entrants to the industry, who now have an opportunity to serve a market to which they were previously denied access. Even for them, however, deregulation is a mixed blessing. Many

> have been unable to survive in the more competitive unregulated environment, and those who have survived are apparently obtaining low earnings.

The research of Papillon looked specifically at Canadian jurisdictions, including Winnipeg, but did not study actual cases of deregulation. Instead, theoretical calculations were used to show that there is a net loss in economic welfare because of taxicab regulation, arising from the fact that a restricted quota of licences, together with restrictions on the collective use of taxis, will result in higher fares and longer response times for users.

The evidence on the relative merits of regulation and deregulation is therefore limited and not decisive one way or the other.

Of greater significance, however, is the fact that previous policies and decisions have resulted in the Board having limited freedom to make significant changes in the areas of entry and rate control, regardless of whether the changes are in the direction of deregulation or more effective regulation.

With respect to entry control, the fixing of the licence quota at the same level for over forty years has resulted in the Board facing major obstacles should it consider abolishing entry control or even making significant changes to the quota. If entry control was abolished, or if a licence quota was retained but substantially expanded, the value of taxicab licences would fall from $50,000 to nothing at all, imposing a substantial economic hardship on licence holders.

If entry control must be maintained, there is little doubt that fare control must be as well. Yet here too, past policies and decisions, likely stemming from the paucity of resources given to the Board, have resulted in the Board having to be content with an inadequate means of setting fares on the basis of costs. As a result, the industry has come to believe that the Board has no right or duty to collect the required financial information, and will likely only provide such information at high costs of ensuring compliance.

The government can regain its freedom to make significant decisions by making a fresh start. At a cost of $20 million, the government can buy out the existing licences of all current licence holders. New licences could be issued under any conditions set by the government. Licences could be made non-transferable, which would end once and for all the problem of licences becoming valuable in their own right. The number of licences issued could be set according to the public convenience and necessity, or by a simple fitness test for applicants. Licences could be issued on the condition of the licence holder supplying a specified annual return of financial information, which could form the basis for a greatly improved fare setting mechanism.

A buyout of all existing licence holders would give the government the fullest possible range of options in deciding upon the appropriate kind and degree of regulation.

RECOMMENDATION 31

It is recommended that the Government consider the option of buying all existing licences, in order that it may have the full freedom of action needed to implement major changes in entry and rate control.

SUMMARY OF RECOMMENDATIONS

The Board makes the following recommendations in this report:

1. INCREASED COMPETITION

It is recommended that the establishment of a third major dispatch company in Winnipeg be facilitated.

2. OWNER OPERATOR LICENCES

It is recommended that Moore's Taxi (1984) Ltd. o/a Unicity Taxi and Unicity Taxi Ltd. be required to attend a hearing before the Board to show cause:

(a) why the licences held in their names should not be revoked, and reissued to their individual shareholder owners, on the ground that Unicity Taxi does not "operate" taxicabs within the meaning of subsection 4(1) of the Taxicab Act, whereas the shareholder-owners do so and accordingly are required under the law to hold a licence in their own right; or, alternatively,

(b) why the Board should not order Unicity Taxi Ltd. and Moore's Taxi (1984) Ltd. to re-organize the structure of Unicity Taxi, and properly exercise control over and assume responsibility for the operations of taxicabs operated under their licences, in a manner consistent with subsection 4(1) of the Taxicab Act.

3. NO DIRECT LICENCE PRICE REGULATION

It is recommended that the Board not directly regulate the price at which licences may be transferred, due to the lack of support for such regulation and the legitimacy of concerns over its enforceability.

4. NO RETURN ON INVESTMENT REGULATION

It is recommended that the Board not consider whether taxicab owners earn a "fair" return on investment as owners, in the establishment of the fare structure, due to the lack of an effective means to ensure all or a large portion of the returns in excess of what might occur in a freely competitive market or in alternative endeavors available to taxi operators are not capitalized and taken from the industry by sellers of licences.

5. NO RETURN ON LICENCE

It is recommended that in any financial modeling related to the establishment of the fare structure, the amount paid for a licence be ignored, with a return on investment being allowed solely on the actual capital investment in vehicles and equipment on the part of the owner.

6. FINANCIAL REPORTING

It is recommended that the Board not institute financial reporting requirements for taxicab licence holders at this time due to the level of resources that would be necessary to enforce meaningful compliance and the fact no other jurisdiction has such requirements.

However, the Board remains of the view that the provision of accurate revenue and operating data is essential to effective economic regulation of taxis. Accordingly, this issue should be reviewed after implementation of Recommendation 28 respecting receipt printing meters and implementation of the federal goods and services tax.

7. FARE INCREASE JUSTIFICATION

It is recommended that upon an application for a fare increase the applicant be required to file satisfactory evidence of cost changes since the date of the last fare increase, and that, in the absence of evidence to the contrary, the percentage fare increase granted should be based on the increase in costs over the relevant period.

8. INDUSTRY COST MIX

It is recommended that the Board work with the industry in the development of a percentage breakdown of costs of a typical taxi operation in order to appropriately determine the impact of changes within particular cost categories, to the overall cost of taxi operation.

9. INSPECTION CRITERIA IMPROVEMENT

It is recommended that:

(a) the Board conduct an analysis of the defects found in inspections conducted by the Manitoba Public Insurance Corporation with a view to identifying common defects which could be added to the compliance inspections conducted by taxicab inspectors throughout the year; and

(b) the Board set out its inspection criteria in a regulation which insofar as is possible contains objective standards for both the suitability of the condition of the vehicle and the compliance action to be taken.

10. SUPERIOR CLASS OF LICENCE

It is recommended that:

(a) the Board not impose superior vehicle standards on the industry generally, but rather establish a separate class of licence with superior vehicle and service standards, and a higher fare level, sufficient to finance compliance with the superior standards and achieve an adequate response time for the class;

(b) in order to ensure users are not confused by the differing services available and to allow feasible dispatch, the superior service be required to be dispatched under a business name that is distinctive from that under which regular service is provided, and through a different telephone line; and any advertisement of the superior service must describe the service as such and the fact it is offered at a higher fare;

(c) users and interested members of the industry be consulted further, through the Taxicab Advisory Committee, in order to determine the precise quality of vehicle and service standards that would meet the needs of the users and the revenue requirements of the owners; and

(d) subject to recommendation 12, the Board not set a particular quota for each class of taxi, and a licence authorizing the operation of a vehicle of one class be freely convertible to a licence authorizing the operation of a vehicle of another class.

11. REGULAR CLASS VEHICLE AGE

It is recommended that the Board not impose an age restriction on vehicles operated in the regular class, provided implementation of recommendations 9, 10 and 22 effectively improve the general condition of vehicles in service.

12. LICENCE QUOTA ADJUSTMENTS

It is recommended that:

(a) the limit on the number of taxi licences be immediately increased by 20;

(b) the new licences be conditional upon the placing and maintaining in service of a vehicle that meets the superior standards established under recommendation 10;

(c) the licences be issued in blocks of five licences to the highest bidder in a tendering process not restricted to existing licence holders; and

(d) the process of increasing the quota in 20 licence increments be repeated every six months until up to 100 new licences are issued, provided the effect of the previous increase is not found to be adverse and it is apparent demand for taxi services did in fact increase due to the superior class of service.

13. COMPENSATION TO LICENCE HOLDERS

It is recommended that a change in the licence quota which substantially adversely affects the value of a taxi business not be instituted without reasonable compensation to existing licence holders, unless there is a sound basis to believe that demand has recently increased or will increase sufficiently in conjunction with the quota increase, such that the reduction in value is likely to be temporary.

14. ANNUAL REVIEW OF LICENCE QUOTA

It is recommended that:

(a) the Board review annually the public convenience and necessity in respect of the number of licences required in the City of Winnipeg;

(b) the Board adopt a policy that the public convenience and necessity requires the issuance of 3-5 additional licences for every $1,000 the average price of a licence for the year immediately preceding the review exceeds the average price for the year 1989, in the absence of evidence to the contrary presented by an interested person during the course of the review; and

(c) the additional licences be issued to the highest bidder in a tendering process restricted to existing licence holders.

15. MEANS OF COMPENSATION

It is recommended that:

(a) the proceeds of the sale of licences by the Board in accordance with recommendations 12 and 14 be paid in trust to a foundation directed by industry representatives, for the purpose of establishing and administering such programs in support of the industry as the foundation considers appropriate; or alternatively,

(b) if the foundation is not established within a reasonable time, the proceeds be divided equally among all existing licence holders;

in order to compensate existing licence holders for the potential loss in value of their licences due to the quota increases.

16. HANDIVAN REGULATION

It is recommended that:

(a) the Government consider the political costs of deregulation of wheelchair handivans in light of the perception of its benefit in the minds of the public and the advice of the Board that in fact there is little evidence that regulation is beneficial, and determine the appropriate course of action;

(b) the Government defer a decision on this question until the establishment of the quota of wheelchair accessible taxis pursuant to recommendation 18; and

(c) if the government determines economic regulation of the handivan industry should continue, the Board be provided with sufficient resources to ensure its regulation is effective, particularly in respect of economic analysis, and the Board take measures based on such analysis to ensure licences do not develop a market value.

17. WHEELCHAIR ACCESSIBLE TAXI STANDARDS

It is recommended that the Board develop standards for wheelchair accessible taxis in consultation with the Taxicab Advisory Committee.

18. WHEELCHAIR ACCESSIBILITY REQUIRED

It is recommended that

(a) the Board require all dispatch companies with 11 or more vehicles operating under the name of the company to place and maintain in service 1 wheelchair accessible vehicle which meets standards established by the Board, for every 11 vehicles operated under the business name of the company;

(b) this recommendation be phased in over a period of three years, as follows: 1 wheelchair accessible vehicle for every 33 in the first year; 1 for every 22 in the second year; and 1 for every 11 in the third year;

(c) handivan licence holders who choose to place in service a suitable vehicle in accordance with recommendation 19 be encouraged to affiliate with a dispatch company in order that the company's quota of wheelchair accessible vehicles can be achieved with minimal disruption; and

(d) if an insufficient number of handivan licence holders affiliate with a dispatch company, the company be issued the required number of operating licences at no charge, conditional upon the placing and maintaining in service a wheelchair accessible vehicle which meets the standards established by the Board.

19. HANDIVAN LICENCE RESTRICTION REMOVED

It is recommended that the restriction of existing handivan licences to wheelchair passengers and their escorts be removed, subject to the condition that the licence holder places in service a wheelchair accessible vehicle which meets standards established by the Board, within a certain time period to be set by the Board, or until the quota referred to in recommendation 18 is achieved.

20. HANDI-TRANSIT USE OF ACCESSIBLE TAXIS

It is recommended that City of Winnipeg Handi-Transit give serious consideration to the utilization of licenced wheelchair accessible taxis on a contract basis, similar to its current arrangements with Unicity Taxi Ltd. in respect of regular taxis, in lieu of the large buses currently in service, in order to substantially reduce their own cost of operation, and substantially improve the viability of wheelchair accessible taxi service.

21. BOARD POWERS

It is recommended that an amendment to the Taxicab Act be made to give the Board the power to take action itself against illegal operators as a civil matter, rather than having to proceed through the criminal court. The provision should include powers to impose a monetary penalty and to direct the registrar to cancel vehicle registrations.

22. IMPROVED REGULATION OF SERVICE LEVELS

It is recommended that the Board improve its regulation of service levels, and that the industry be called upon to play a greater role in self regulation of service levels, through the following means:

(a) the drafting and issuance as a Board regulation of a Code of Professional Conduct for Taxicab Drivers, Owners, and Dispatch Companies, in consultation with the industry and the Taxicab Advisory Committee;

(b) a requirement in the Code for dispatch companies to compel drivers to report on a random basis and periodically, for inspections by a dispatch company supervisor;

(c) a requirement in the Code that dispatch companies maintain a reliable system by which a record of who is driving all vehicles operated in the name of the company at all times is created and maintained, which system shall include driver permits issued by the dispatch company;

(d) a requirement in the Code for dispatch companies with more than 20 vehicles to employ a mobile supervisor-inspector, having the authority to randomly stop company vehicles and inspect them and the driver's licence and dispatch company permit;

(e) the provision to the Board of clear legislative authority to directly regulate the operations of dispatch companies, and to delegate regulation making power to dispatch companies to ensure they have proper legal authority over affiliated owner operators, through amendments to the Taxicab Act;

(f) the prescribing by the Board of proper procedures for the hearing and determination of disciplinary proceedings by the management of the dispatch companies, which allow for an appeal to the Board from decisions of the management, with leave of the Chairman; and

(g) a requirement in the Code for dispatch companies to file monthly reports on their disciplinary proceedings with the Board.

23. BOARD RESOURCES

It is recommended the Board inspector position, and the clerical position, which were approved for a six month term in connection with the establishment of regulation of passenger vans, and the term position obtained in connection with the establishment of the taxi driver training course, be made permanent.

24. CONCESSION CHARGES PROHIBITED

It is recommended that the Board issue a regulation prohibiting:

(a) the payment or receipt of concession charges, other than direct charges for expenses related solely to the provision of services to taxi operators (such as dispatch services, direct telephone line expenses, etc.); and

(b) the provision of exclusive rights to a particular taxi company.

25. AIRPORT SERVICE SURCHARGE

It is recommended that, subject to the implementation of recommendation 24, a minimum fare or surcharge be imposed for airport service as part of a broader plan for improvement of taxicab service at the airport, if the Board is satisfied by the industry that the waiting time between fares for operators serving the airport is consistently longer than for other operators, to the extent that those serving the airport can not do so adequately without the minimum fare or surcharge.

26. TRANSFER TO CITY OF WINNIPEG

It is recommended that

(a) after the major recommendations of this report are implemented, the Government enter into negotiations with the City of Winnipeg leading to the transfer of regulatory authority over Winnipeg taxicabs to the City; and

(b) the Government continue the current sharing of resources of the Motor Transport Board with the Taxicab Board as long as the Province continues to regulate the taxicab industry.

27. BOARD COMPOSITION

It is recommended the Manitoba Taxicab Board membership be increased to 7, comprised as follows:

(a) 2 members with experience in the industry and knowledge of industry concerns;

(b) 2 members with knowledge of user concerns, including those of the mobility disadvantaged;

(c) at least one member, a Chairman or Vice-Chairman, who is a lawyer;

(d) if possible, at least one member, a Chairman or Vice-Chairman, who is educated in urban transportation economics; and

(e) one member who is a representative of the Police Department.

28. RECEIPT PRINTING METERS

In order to assist owners in the detection and prevention of driver theft, and to facilitate financial record keeping and reporting, it is recommended

(a) owners be required to install receipt printing meters and to produce a print out of the trips and receipts for every shift;

(b) drivers be required to provide a receipt to every passenger; and

(c) owners be required to retain the records of the trips and receipts for each shift for an appropriate period and to produce the records for inspection on the request of the Board.

29. DRIVER MINIMUM WAGE

It is recommended that:

(a) the Board not institute a minimum wage for drivers above that required under the Employment Standards Act, at this time; and

(b) Revised Regulation T10-R2 be repealed, and the Labour Board be called upon to enforce the minimum wage requirements of the Employment Standards Act in respect of taxi drivers; or, alternatively,

(c) should the Employment Standards Act not be enforceable in respect of taxi drivers, it is recommended the Board institute a new regulation prescribing that drivers are to receive no less than the minimum wage prescribed under the Employment Standards Act from time to time.

30. TAXI STANDS

It is recommended that:

(a) the taxi industry be immediately requested to provide a list of locations in which taxi stands are necessary or desirable to allow the industry to adequately serve the public;

(b) the Board review this list with appropriate officials of the City of Winnipeg and determine the locations at which taxi stands will be established; and

(c) the Province negotiate a cost sharing arrangement with the City for the cost of appropriate signs at these locations.

31. LICENCE BUY-BACK OPTION

It is recommended that the Government consider the option of buying all existing licences, in order that it may have the full freedom of action needed to implement major changes in entry and rate control.

Dated the 19th day of March, 1990.

THE MANITOBA TAXICAB BOARD

Donald S. Norquay, Chairman

9. REFERENCES

Beesley, M.E. and Glaister, S., "Information for Regulating: The Case of Taxis", The Economic Journal, Vol. 93 (September 1983), 594-615.

Brownie, D.M. & Associates Ltd., "An Investigation of Taxi Licencing Options", Calgary Taxi Commission, September 1985.

Canadian Paraplegic Association, "Report on Urban Transit Systems: Access and Integration", Canadian Paraplegic Association, December 1988.

Coffman, R.B., "The Economic Reasons for Price and Entry Regulation of Taxicabs, A Comment", Journal of Transport Economics and Policy", September 1977, 288-297.

Eckert, R.D., "On the Incentives of Regulators: The Case of Taxicabs", Public Choice, Vol. XIV (Spring 1973), 83-99.

Economic Council of Canada, "Reforming Regulation", Minister of Supply and Services, 1981

Geehan, T.E., Geehan, R.R., and Smith, T.N., "Transportation and Disabled Persons: A Canadian Profile", Transportation Development Centre, Transport Canada, March 1988.

Grant, H., "The Economics of the Winnipeg Taxicab Industry: A Brief Submitted to the Manitoba Taxicab Board", January 1989.

James F. Hickling Ltd. "Transportation for Disabled Persons in Ontario: Towards a Strategy for the 1990's, Volume 1, Summary Report", Ontario Ministry of Transportation, March 1988.

Manitoba Taxicab Inquiry Commission, "Final Report", December 1972.

Merrett, J. S., "Review of Cost of Operations, Viability, Policies and Regulation, Respecting the Wheelchair Taxi Industry in Winnipeg, Part 2, Impact of Policy and Regulation Changes", Manitoba Department of Highways and Transportation, July 1987.

Pagano, A.M., and McKnight, C.F., "Economies of Scale in the Taxicab Industry, Some Empirical Evidence from the United States", Journal of Transport Economics and Policy, September 1983, 299-313.

Papillon, B., "The Taxi Industry and Its Regulation in Canada", Working Paper No. 30, Economic Council of Canada, March 1982.

Regional Municipality of Ottawa-Carleton Licencing Committee, "Report on Ottawa-Carleton Taxi Regulation", June 1989.

Shreiber, C., "The Economic Reasons for Price and Entry Regulation of Taxicabs", Journal of Transport Economics and Policy, September 1975, 268-279.

Shreiber, C., "The Economic Reasons for Price and Entry Regulation of Taxicabs: A Rejoinder", Journal of Transport Economics and Policy, September 1977, 298-304.

Shreiber, C., "The Economic Reasons for Price and Entry Regulation of Taxicabs, A Rejoinder", Journal of Transport Economics and Policy, January 1981, 81-83.

Teal, R.F. and Berglund, M., "The Impacts of Taxicab Deregulation in the USA", Journal of Transport Economics and Policy, January 1987, 37-56.

Touche Ross Management Consultants, "A Study of the Winnipeg Taxi Industry and Related Problem Areas", Manitoba Taxicab Board, May 1988.

Williams, D.J., "The Economic Reasons for Price and Entry Regulation of Taxicabs, A Comment", Journal of Transport Economics and Policy, January 1980, 105-112.

Williams, D.J., "Information and Price Determination in Taxi Markets", Quarterly Review of Economics and Business, Vol. 20, No. 4 (Winter, 1980), 36-43.